

(a) The cost recovery plan shall set rates for each customer class, rate schedule, contract, or tariff option, at levels equal to the level as shown on electric rate schedules as of June 10, 1996, provided that rates for residential and small commercial customers shall be reduced so that these customers shall receive rate reductions of no less than 10 percent for 1998 continuing through 2002. These rate levels for each customer class, rate schedule, contract, or tariff option shall remain in effect until the earlier of March 31, 2002, or the date on which the commission-authorized costs for utility generation-related assets and obligations have been fully recovered. The electrical corporation shall be at risk for those costs not recovered during that time period. Each utility shall amortize its total uneconomic costs, to the extent possible, such that for each year during the transition period its recorded rate of return on the remaining uneconomic assets does not exceed its authorized rate of return for those assets. For purposes of determining the extent to which the costs have been recovered, any over-collections recorded in Energy Costs Adjustment Clause and Electric Revenue Adjustment Mechanism balancing accounts, as of December 31, 1996, shall be credited to the recovery of the costs.

(b) The cost recovery plan shall provide for identification and separation of individual rate components such as charges for energy, transmission, distribution, public benefit programs, and recovery of uneconomic costs. The separation of rate components required by this subdivision shall be used to ensure that customers of the electrical corporation who become eligible to purchase electricity from suppliers other than the electrical corporation pay the same unbundled component charges, other than energy, that a bundled service customer pays. No cost shifting among customer classes, rate schedules, contract, or tariff options shall result from the separation required by this subdivision. Nothing in this provision is intended to affect the rates, terms, and conditions or to limit the use of any Federal Energy Regulatory Commission-approved contract entered into by the electrical corporation prior to the effective date of this provision.

(c) In consideration of the risk that the uneconomic costs identified in Section 367 may not be recoverable within the period identified in subdivision (a) of Section 367, an electrical corporation that, as of December 20, 1995, served more than four million customers, and was also a gas corporation that served less than four thousand customers, shall have the flexibility to employ risk management tools, such as forward hedges, to manage the market price volatility associated with unexpected fluctuations in natural gas prices, and the out-of-pocket costs of acquiring the risk management tools shall be considered reasonable and collectible within the transition freeze period. This subdivision applies only to the

transaction costs associated with the risk management tools and shall not include any losses from changes in market prices.

(d) In order to ensure implementation of the cost recovery plan, the limitation on the maximum amount of cost recovery for nuclear facilities that may be collected in any year adopted by the commission in Decision 96-01-011 and Decision 96-04-059 shall be eliminated to allow the maximum opportunity to collect the nuclear costs within the transition cap period.

(e) As to an electrical corporation that is also a gas corporation serving more than four million California customers, so long as any cost recovery plan adopted in accordance with this section satisfies subdivision (a), it shall also provide for annual increases in base revenues, effective January 1, 1997, and January 1, 1998, equal to the inflation rate for the prior year plus two percentage points, as measured by the consumer price index. The increase shall do both of the following:

(1) Remain in effect pending the next general rate case review, which shall be filed not later than December 31, 1997, for rates that would become effective in January 1999. For purposes of any commission-approved performance-based ratemaking mechanism or general rate case review, the increases in base revenue authorized by this subdivision shall create no presumption that the level of base revenue reflecting those increases constitute the appropriate starting point for subsequent revenues.

(2) Be used by the utility for the purposes of enhancing its transmission and distribution system safety and reliability, including, but not limited to, vegetation management and emergency response. To the extent the revenues are not expended for system safety and reliability, they shall be credited against subsequent safety and reliability base revenue requirements. Any excess revenues carried over shall not be used to pay any monetary sanctions imposed by the commission.

(f) The cost recovery plan shall provide the electrical corporation with the flexibility to manage the renegotiation, buy-out, or buy-down of the electrical corporation's power purchase obligations, consistent with review by the commission to assure that the terms provide net benefits to ratepayers and are otherwise reasonable in protecting the interests of both ratepayers and shareholders.

(g) An example of a plan authorized by this section is the document entitled "Restructuring Rate Settlement" transmitted to the commission by Pacific Gas and Electric Company on June 12, 1996.

SEC. 126. Section 489.1 of the Public Utilities Code is amended to read:

489.1. (a) This section applies to contracts executed by gas corporations in instances in which the corporations are precluded from shifting to any other customers any loss of revenue as measured

against filed rates and tariffs. To encourage fair competition, the commission may, by rule or order, partially or completely exempt, from the requirements of subdivision (a) of Section 489, contracts negotiated by the gas corporations for service subject to the commission's jurisdiction, with rates, terms, or conditions differing from the schedules on file with the commission. To provide general guidance to the public and to minimize administration adjudications, the commission shall adopt and enforce rules, on or before July 1, 1997, on gas utilities contract confidentiality that consider, among other issues, the impact of supply contract confidentiality on competitive markets and customers and that require both of the following:

(1) Reasonable comparability between contract disclosure requirements applicable to gas corporations and those applicable to competitors pursuant to federal law.

(2) The disclosure of information that may be reasonably necessary to permit auditing and collection of fees and taxes.

(b) If, due to inadequate resources, the commission has not issued the rules pursuant to subdivision (a) within the time required, in any order exempting a contract from public inspection, partially or completely, the commission shall require the disclosures set forth in paragraphs (1) and (2) of subdivision (a) as are relevant.

(c) Upon request by a person, and a finding by the commission that the public benefit from the disclosure of additional specific information regarding a particular contract would outweigh the interests of the gas corporation and customer in confidentiality, the commission may order disclosure of the additional contract information subject to the conditions and limitations that the commission may establish. However, the commission shall allow representatives of residential customers of the gas corporation, who are not competitors of the gas corporation and have not previously violated a nondisclosure agreement, to inspect the contracts subject to a nondisclosure agreement.

(d) Notwithstanding subdivisions (a), (b), and (c), to ensure compliance with Section 454.4, this section does not apply to contracts between gas utilities and electrical corporations. These contracts shall continue to be subject to commission policy and its rules of practice and procedure. However, no less information shall be made publicly available regarding these contracts than would otherwise be made available pursuant to this section.

(e) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 127. Section 740.4 of the Public Utilities Code is amended to read:

740.4. (a) The commission shall authorize public utilities to engage in programs to encourage economic development.

(b) Reasonable expenses for economic development programs, as specified in this section, shall be allowed, to the extent of ratepayer benefit, when setting rates to be charged by public utilities electing to initiate these programs.

(c) Economic development activities may include, but not be limited to, the following:

- (1) Community marketing and development.
- (2) Technical assistance to support technology transfer.
- (3) Market research.
- (4) Site inventories.
- (5) Industrial and commercial expansion and relocation assistance.
- (6) Business retention and recruitment.
- (7) Management assistance.

(d) This section shall not be interpreted to permit the funding of economic development activities that benefit any affiliated companies or parent holding companies beyond that which is authorized by law as of January 1, 1992.

(e) (1) This section does not authorize the commission to establish discriminatory rates for the purpose of attracting or benefiting specific industries or business entities, except that incentives may be provided for the benefit of industries or business entities whose facilities are located within the boundaries of enterprise zones, economic incentive areas, recycling market development zones, or federal rural enterprise communities in accordance with the provisions of Chapter 12.8 (commencing with Section 7070) and Article 1 (commencing with Section 7080) of Chapter 12.9 of Division 7 of Title 1 of the Government Code, and Article 2 (commencing with Section 42145) of Chapter 3 of Part 3 of the Public Resources Code.

(2) The commission may apply the incentives authorized by this subdivision that benefit industries or business entities whose facilities are located within the boundaries of economic enterprise zones or incentive areas to attract a federal Department of Defense Finance and Accounting Service Center at the existing site of Norton Air Force Base in San Bernardino County. This paragraph shall become inoperative if the federal Department of Defense Finance and Accounting Service Center is not located upon the premises known as Norton Air Force Base in San Bernardino County and shall also become inoperative on February 1, 1994, if that facility has not been awarded to that site before that date.

(f) The commission may provide incentives pursuant to subdivision (e) to industries or business entities whose facilities are located within the boundaries of an enterprise zone that engage in activities in connection with the conversion of Fort Ord to other uses.

(g) The commission may authorize rate discounts to industries or business entities whose facilities are located or will be located within

the boundaries of enterprise zones, recycling market development zones, or economic incentive areas pursuant to paragraph (1) of subdivision (e). These discounts may be applied in either of the following ways:

(1) Utilities may apply reduced monthly rates to qualifying customers' monthly utility bills.

(2) Utilities may, at the election of qualifying customers, assign the discounts to a private or public entity that returns consideration of like value to those customers, provided the customers agree to maintain their facilities in an enterprise zone, a recycling market development zone, or an economic incentive area for a minimum of five years from the date of commencement of the discount.

(h) It is the intent of the Legislature that the Public Utilities Commission, in implementing this chapter, shall allow rate recovery of expenses and rate discounts supporting economic development programs within the geographic area served by any public utility to the extent the utility incurring or proposing to incur those expenses and rate discounts demonstrates that the ratepayers of the public utility will derive a benefit from those programs. Further, it is the intent of the Legislature that expenses for economic development programs incurred prior to the effective date of this chapter, which have not been previously authorized to be recovered in rates, shall not be subject to rate recovery.

SEC. 128. Section 5322 of the Public Utilities Code is amended to read:

5322. (a) The Legislature finds and declares that advertisement and use of telephone service is essential for household goods carriers to obtain business and conduct intrastate moving services. The unlawful advertisement by unlicensed household goods carriers has required properly licensed and regulated household goods carriers to compete with unlicensed household goods carriers using unfair business practices. Unlicensed household goods carriers have also exposed citizens of the State of California to unscrupulous persons who portray themselves as properly licensed, qualified, and insured household goods carriers. Many of these unlicensed household goods carriers have been found to have perpetrated acts of theft, fraud, and dishonesty upon unsuspecting citizens of the State of California.

(b) The Legislature finds and declares that the termination of telephone service utilized by unlicensed household goods carriers is essential to ensure the public safety and welfare. Therefore, the commission should take enforcement action as specified in this section to disconnect telephone service of unlicensed household goods carriers who unlawfully advertise moving services in yellow page directories and other publications. The enforcement action provided for by this section is consistent with the decision of the Supreme Court of the State of California in *Goldin, et al. v. Public Utilities Commission et al.*, 23 Cal. 3d 638.

(c) Any telephone utility operating under the jurisdiction of the commission shall refuse telephone service to a new customer and shall disconnect telephone service of an existing customer only after it is shown that other available enforcement remedies of the commission have failed to terminate unlawful activities detrimental to the public welfare and safety, and upon receipt from any authorized official of the commission of a writing, signed by a magistrate, as defined by Sections 807 and 808 of the Penal Code, finding that probable cause exists to believe that the customer is advertising or holding out to the public to perform, or is performing, household goods carrier services without having in force a permit issued by the commission authorizing those services, or that the telephone service otherwise is being used or is to be used as an instrumentality, directly or indirectly, to violate or to assist in violation of the laws requiring a household goods carrier permit. Included in the writing of the magistrate shall be a finding that there is probable cause to believe that the subject telephone facilities have been or are to be used in the commission or facilitation of holding out to the public to perform, or in performing, household goods carrier services without having in force a permit issued by the commission authorizing those services, and that, absent immediate and summary action, a danger to public welfare or safety will result.

(d) Any person aggrieved by any action taken pursuant to this section shall have the right to file a complaint with the commission and may include therein a request for interim relief. The commission shall schedule a public hearing on the complaint to be held within 21 calendar days of the filing and assignment of a docket number to the complaint. The remedy provided by this section shall be exclusive. No other action at law or in equity shall accrue against any telephone utility because of, or as a result of, any matter or thing done or threatened to be done pursuant to this section.

(e) At any hearing on complaint pursuant to subdivision (d), the commission staff shall have the right to participate, including the right to present evidence and argument and to present and cross-examine witnesses. The commission staff shall have both the burden of providing that the use made or to be made of the telephone service is to hold out to the public to perform, or to assist in performing, services as a household goods carrier, or that the telephone service is being or is to be used as an instrumentality, directly or indirectly, to violate or to assist in violation of the licensing laws as applicable to household goods carriers and that the character of the acts is such that, absent immediate and summary action, a danger to public welfare or safety will result, and the burden of persuading the commission that the telephone services should be refused or should not be restored.

(f) The telephone utility, immediately upon refusal or disconnection of service in accordance with subdivision (c), shall

notify the customer or subscriber in writing that the refusal or disconnection of telephone service has been made pursuant to a request of the commission and the writing of a magistrate, and shall include with the notice a copy of this section, a copy of the writing of the magistrate, and a statement that the customer or subscriber may request information from the commission at its San Francisco or Los Angeles office concerning any provision of this section and the manner in which a complaint may be filed.

(g) Each contract for telephone service, by operation of law, shall be deemed to contain the provisions of this section. The provisions shall be deemed to be a part of any application for telephone service. Applicants and customers for telephone service shall be deemed to have consented to the provisions of this section as a consideration for the furnishing of the service.

(h) The terms "person," "customer," and "subscriber," as used in this section, include a subscriber to telephone service, an applicant for that service, a corporation, a company, a partnership, an association, and an individual.

(i) The term "telephone utility," as used in this section, includes a "telephone corporation" and a "telegraph corporation," as defined in Division 1 (commencing with Section 201).

(j) The term "authorized official," as used in this section, includes the Director of the Safety and Enforcement Division of the Public Utilities Commission or any commission employee designated pursuant to paragraph (5) of subdivision (a) of Section 830.11 of the Penal Code.

SEC. 129. Section 125105 of the Public Utilities Code is amended to read:

125105. The board shall:

(a) Acquire, construct, maintain, and operate (or let a contract to operate) public transit systems and related facilities.

(b) Adopt an annual budget and fix the compensation of its officers and employees.

(c) Adopt an administrative code, by ordinance, that prescribes the powers and duties of board officers, the method of appointment of board employees, and methods, procedures, and systems of operation and management of the board.

(d) Cause a postaudit of the financial transactions and records of the board to be made at least annually by a certified public accountant.

(e) Appoint advisory commissions as it deems necessary.

(f) Do any and all things necessary to carry out the purposes of this division, including, but not limited to, adopting all ordinances and making all rules and regulations proper or necessary to regulate the use, operation, and maintenance of its property and facilities, including its public transit systems and related transportation facilities and services operating within its area of jurisdiction and

those areas beyond the board's jurisdiction served by the board pursuant to contract or memorandum of agreement with another transit agency, and to carry into effect the powers granted to the board.

SBC. 130. Section 69.5 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 897 of the Statutes of 1996, is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding paragraph (1), the limitation in that paragraph requiring that the original property and the replacement dwelling be located in the same county does not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph applies in a county only if the ordinance adopted by the board of supervisors complies with the following requirements:

(A) The ordinance is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) The ordinance requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) The ordinance requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) The ordinance provides that its provisions shall remain operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), a person must meet all of the following conditions in order to be eligible for the property tax relief provided by this section:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated, which portion of land, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) (A) For purposes of paragraph (1) of subdivision (a), the replacement dwelling, including that portion of land on which it is situated as specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(B) For purposes of paragraph (2) of subdivision (a), the replacement dwelling, including that portion of the land on which it is situated as specified in paragraph (5), is located entirely within the county.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph does not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the

age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board as necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision is subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section is available to a claimant who is the coowner of the original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them shall be deemed eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) apply only to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section does not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803, or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant is not eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician and surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property, and, if the original property is located within another county, the name of the county or counties and, if applicable, city or cities in which the original property is located.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(6) If the original property and the replacement dwelling are located in different counties, the base year value of the original property determined by the assessor of the county in which the original property is located.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant holds either a leasehold interest described in subdivision (c) of Section 61 or a land-purchase contract. Each unit of a multiunit dwelling is considered a separate replacement dwelling. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if no portion of the property is used for commercial purposes. "Commercial purposes" does not include activities that are incidental to the use of the property as a residential site.

(4) "Original property" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant holds either a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit

of a multiunit dwelling is considered a separate original property. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if no portion of the property is used for commercial purposes. "Commercial purposes" does not include activities that are incidental to the use of the property as a residential site.

(5) "Equal or lesser value" means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if either of the following conditions is met:

(i) The replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

(ii) The replacement dwelling is purchased or newly constructed on or after November 5, 1986, and on or before January 1, 1988, and within two years of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the "replacement dwelling is purchased or newly constructed" is the date of purchase or the date of completion of construction, whichever is later.

(6) "Full cash value of the replacement dwelling" means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) "Full cash value of the original property" means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) "Sale" means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner

of the replacement dwelling, the spouse shall also be deemed a claimant for purposes of determining whether the condition of paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowner's exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Consultation" means a noticed hearing conducted by a county board of supervisors concerning the adoption of an ordinance described in paragraph (2) of subdivision (a) and with respect to which all local affected agencies within the boundaries of the county are provided with reasonable notice of the time and place of the hearing and a reasonable opportunity to appear and participate at the hearing.

(12) "Local affected agency" means any city, special district, school district, or community college district that receives an annual property tax revenue allocation.

(13) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(14) "Severely and permanently disabled person" means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), applies to any replacement dwelling that is purchased or newly constructed on or after November 5, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, this section, except as provided in paragraph (3), applies to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but does not apply to any

replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section applies only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by Chapter 1180 of the Statutes of 1992 apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and apply commencing with the 1991-92 fiscal year.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 131. Section 69.5 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 897 of the Statutes of 1996, is repealed.

SEC. 132. Section 69.5 is added to the Revenue and Taxation Code, to read:

69.5. (a) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(b) In addition to meeting the requirements of subdivision (a), a person must meet all of the following conditions in order to be eligible for claiming the property tax relief provided by this section:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated as specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph does not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board as necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the

replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision is subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section is available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) apply

only to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section does not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803, or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who was a record owner of the original property at the time of its sale or is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician and surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant holds either a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract.

Each unit of a multiunit dwelling is considered a separate replacement dwelling. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if no portion of the property is used for commercial purposes. "Commercial purposes" does not include activities that are incidental to the use of the property as a residential site.

(4) "Original property" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant holds either a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling is considered a separate original property. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if no portion of the property is used for commercial purposes. "Commercial purposes" does not include activities that are incidental to the use of the property as a residential site.

(5) "Equal or lesser value" means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the "replacement dwelling is purchased or newly constructed" is the date of purchase or the date of completion of construction, whichever is later.

(6) "Full cash value of the replacement dwelling" means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) "Full cash value of the original property" means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) "Sale" means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowner's exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) "Severely and permanently disabled" means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the

replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee may not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) This section, except as provided in paragraph (2) or (3), applies to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value by a severely and permanently disabled person, this section applies only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(3) The amendments made to subdivision (e) by Chapter 1180 of the Statutes of 1992 apply only to replacement dwellings under

Section 69 that are acquired or newly constructed on or after October 20, 1991, and applies commencing with the 1991-92 fiscal year.

(k) This section shall become operative on January 1, 1999.

SEC. 133. Section 401.10 of the Revenue and Taxation Code, as added by Chapter 76 of the Statutes of 1996, is repealed.

SEC. 134. Section 401.11 of the Revenue and Taxation Code is amended to read:

401.11. (a) Notwithstanding any other provision of law, refunds or payments of taxes, where applicable, for intercounty pipeline right-of-way property that is subject to local assessment pursuant to the decision in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42, shall be treated as follows for taxpayers and tax years described below:

(1) The tax refund claims that are subject to this subdivision are the tax refund claims for the following taxpayers and tax years:

(A) Tax refund claims of any taxpayer who was a plaintiff in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42, for tax years 1984-85 to 1996-97, inclusive, that were not included in the judgment for the taxpayer.

(B) Tax refund claims of any taxpayer who was not a plaintiff in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42, for tax years 1989-90 to 1996-97, inclusive.

(2) If taxes due on local assessments, as calculated under Section 401.10, are less than the total taxes paid by the taxpayer for that year, based on either the original State Board of Equalization assessments or escape assessments made by the local assessor, or both, the county shall refund the difference. Simple interest at the rate of 8 percent shall be paid by the county on any overpayment for the period from the date of the tax payment resulting in the overpayment through December 31, 1992. Simple interest at the county's pool apportioned rate shall be paid by the county on any overpayment for the period from January 1, 1993, through the date which is 45 days prior to payment in full. No interest shall be payable for the 45-day period immediately prior to payment in full. For purposes of this subdivision, payment shall be deemed to be timely if made 45 days after the effective date of this section.

(3) If payment of any taxes due under this subdivision is made within 45 days of billing by the tax collector for payment, the county may not impose late payment penalties or interest. Taxes not paid within 45 days of billing by the tax collector shall become delinquent at that time, and the delinquent penalty, redemption penalty, or other collection provisions of this code shall thereafter apply.

(b) Notwithstanding any other provision of law, the judgment obligation of each judgment debtor under the judgment entered in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42 shall be deemed fully satisfied with respect to a judgment creditor if a debtor county makes timely payment to

that judgment creditor of the amount calculated pursuant to this subdivision. For purposes of this subdivision, a payment shall be deemed to be timely if made 45 days after the effective date of this section. For purposes of this subdivision, the amount that shall be paid to satisfy the judgment is the total of the amounts awarded to the judgment creditor against the debtor county in paragraphs 5, 6, 7, and 8 of the judgment entered in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42, together with postjudgment interest thereon, except that no interest shall be due for the 45-day period immediately prior to payment in full. For purposes of this subdivision, postjudgment interest shall be calculated at 7 percent, except that postjudgment interest shall be calculated at the county's then effective county pool apportioned rate for the following periods of time: July 1, 1993, to April 30, 1994, inclusive; and January 1, 1995, until 45 days prior to the date of payment in full.

(c) Any refund or billing for payment made pursuant to this section may be made on the basis of a single, countywide parcel per taxpayer as described in Section 401.8.

(d) This section shall remain in effect only until January 1, 2000, and, as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

SEC. 135. Section 410.10 of the Revenue and Taxation Code is amended and renumbered to read:

401.10. (a) Notwithstanding any other provision of law relating to the determination of the values upon which property taxes are based, values for each tax year from the 1984-85 tax year to the 2000-01 tax year, inclusive, for intercounty pipeline rights-of-way on publicly or privately owned property, including those rights-of-way that are the subject of a change in ownership, new construction, or any other reappraisable event during the period from March 1, 1975, to June 30, 2001, inclusive, shall be rebuttably presumed to be at full cash value for that year, if all of the following conditions are met:

(1) (A) The full cash value is determined to equal a 1975-76 base year value, annually adjusted for inflation in accordance with subdivision (b) of Section 2 of Article XIII A of the California Constitution, and the 1975-76 base year value was determined in accordance with the following schedule:

(i) Twenty thousand dollars (\$20,000) per mile for a high density property.

(ii) Twelve thousand dollars (\$12,000) per mile for a transitional density property.

(iii) Nine thousand dollars (\$9,000) per mile for a low density property.

(B) For purposes of this section, the density classifications described in subparagraph (A) are defined as follows:

(i) "High density" means Category 1 (densely urban) as established by the State Board of Equalization.

(ii) "Transitional density" means Category 2 (urban) as established by the State Board of Equalization.

(iii) "Low density" means Category 3 (valley-agricultural), Category 4 (grazing); and Category 5 (mountain and desert) as established by the State Board of Equalization.

(2) The full cash value is determined utilizing the same property density classifications that were assigned to the property by the State Board of Equalization for the 1984-85 tax year or, if density classifications were not so assigned to the property for the 1984-85 tax year, the density classifications that were first assigned to the property by the board for a subsequent tax year.

(3) (A) If a taxpayer owns multiple pipelines in the same right-of-way, an additional 50 percent of the value attributed to the right-of-way for the presence of the first pipeline, as determined under paragraphs (1) and (2), shall be added for the presence of each additional pipeline up to a maximum of two additional pipelines. For any particular taxpayer, the total valuation for a multiple pipeline right-of-way shall not exceed 200 percent of the value determined for the right-of-way of the first pipeline in the right-of-way in accordance with paragraphs (1) and (2).

(B) If the State Board of Equalization has determined that an intercounty pipeline, located within a multiple pipeline right-of-way previously valued in accordance with subparagraph (A), has been abandoned as a result of physical removal or blockage, the assessed value of the right-of-way attributable to the last pipeline enrolled in accordance with subparagraph (A) shall be reduced by not less than 75 percent of that increase in assessed value that resulted from the application of subparagraph (A).

(4) If all pipelines of a taxpayer located within the same pipeline right-of-way, previously valued in accordance with this section, are determined by the State Board of Equalization to have been abandoned as the result of physical removal or blockage, the assessed value of that right-of-way to that taxpayer shall be determined to be no more than 25 percent of the assessed value otherwise determined for the right-of-way for a single pipeline of that taxpayer pursuant to paragraphs (1) and (2).

(b) If the assessor assigns values for any tax year from the 1984-85 tax year to the 2000-01 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer's right to assert any challenge to the right to assess that property, whether in an administrative or judicial proceeding, shall be deemed to have been raised and resolved for that tax year and the values determined in accordance with that methodology shall be rebuttably presumed to be correct. If the assessor assigns values for any tax year from the 1984-85 tax year to the 2000-01 tax year, inclusive, in accordance with

the methodology specified in subdivision (a), any pending taxpayer lawsuit that challenges the right to assess the property shall be dismissed by the taxpayer with prejudice as it applies to intercounty pipeline rights-of-way.

(c) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor assigns values for rights-of-way for any tax year from the 1984-85 tax year to the 2000-01 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer may not challenge the right to assess that property and the values determined in accordance with that methodology shall be rebuttably presumed to be correct for that property for that tax year.

(d) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor does not assign values for rights-of-way for any tax year from the 1984-85 tax year to the 2000-01 tax year, inclusive, at the 1975-76 base year values specified in subdivision (a), any assessed value that is determined on the basis of valuation standards that differ, in whole or in part, from those valuation standards set forth in subdivision (a) shall not benefit from any presumption of correctness, and the taxpayer may challenge the right to assess that property or the values for that property for that tax year. As used herein, a challenge to the right to assess shall include any assessment appeal, claim for refund, or lawsuit asserting any right, remedy, or cause of action relating to or arising from, but not limited to, the following or similar contentions:

(1) That the value of the right-of-way is included in the value of the underlying fee or railroad right-of-way.

(2) That assessment of the value of the right-of-way to the owner of the pipeline would result in double assessment.

(3) That the value of the right-of-way may not be assessed to the owner of the pipeline separately from the assessment of the value of the underlying fee.

(e) Notwithstanding any other provision of law, during a four-year period commencing on the effective date of this section, the assessor may issue an escape assessment in accordance with the specific valuation standards set forth in subdivision (a) for the following taxpayers and tax years:

(1) Any intercounty pipeline right-of-way taxpayer who was a plaintiff in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42, for the tax years 1984-85 to 1996-97, inclusive.

(2) Any intercounty pipeline right-of-way taxpayer who was not a plaintiff in *Southern Pacific Pipe Lines, Inc. v. State Board of Equalization* (1993) 14 Cal. App. 4th 42, for the tax years 1989-90 to 1996-97, inclusive.

(f) Any escape assessment levied under subdivision (e) shall not be subject to penalties or interest under the provisions of Section 532. If payment of any taxes due under this section is made within 45 days of demand by the tax collector for payment, the county shall not impose any late payment penalty or interest. Taxes not paid within 45 days of demand by the tax collector shall become delinquent at that time, and the delinquent penalty, redemption penalty, or other collection provisions of this code shall thereafter apply.

(g) For purposes of this section, "intercounty pipeline right-of-way" means, except as otherwise provided in this subdivision, any interest in publicly or privately owned real property through which or over which an intercounty pipeline is placed. However, "intercounty pipeline right-of-way" does not include any parcel or facility that the State Board of Equalization originally separately assessed using a valuation method other than the multiplication of pipeline length within a subject property by a unit value determined in accordance with the density category of that subject property.

(h) This section shall remain in effect only until January 1, 2001, and, as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 136. Section 2188.8 of the Revenue and Taxation Code is amended to read:

2188.8. (a) Whenever the assessor receives a written request for separate assessment of time-share estates in a time-share project, as defined in Section 11003.5 of the Business and Professions Code and as specified in subdivision (h) of this section, the assessor shall, on the first lien date that occurs more than 60 days following the request, and on each lien date thereafter, separately assess each time-share estate in the project if the assessor determines that the conditions specified in subdivision (c) have been met. Whenever estates in a time-share project are separately assessed, they shall continue to be separately assessed in subsequent fiscal years and, once a request for separate assessment is made with respect to a project, it is binding on all future time-share estate owners.

(b) The interest that is to be separately assessed is the value of the right of recurrent, exclusive use or occupancy of real property, annually or on some other periodic basis, for a specific period of time that has been, or will be, allotted from the use or occupancy periods into which the project has been divided.

(c) The separate assessment of a time-share estate may not be made by the assessor unless both of the following occur:

(1) The person making the request certifies that the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally.

(2) A diagrammatic floor plan of the improvements, a copy of the documents setting forth the procedures for scheduling time and units to each time-share estate owner, and a list of every time-share estate owner, with a date notation thereon showing when, according to the organization's records, each time-share estate was acquired, have been filed with the assessor. A plot map of the land showing the location of the improvements on the land need not be filed unless requested by the assessor. The organization shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor setting forth any changes to the required information known to the organization. The list or other information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408.

(d) Notwithstanding subdivision (c), this section shall not be construed to require any person making a request for separate assessment to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment.

(e) The tax on a time-share estate that is separately assessed pursuant to this section shall be a lien solely on the time-share estate and shall be entered on and be subject to all provisions of law applicable to taxes on the secured roll, provided:

(1) If the taxes on any time-share estate that is separately assessed remain unpaid at the time set for declaration of default for delinquent taxes, the taxes on the time-share estate, together with any penalties and costs that may have accrued thereon while on the secured roll, may be transferred to the unsecured roll.

(2) Defaulted time-share estate taxes remaining unpaid on any prior year secured tax roll may be transferred to the unsecured roll and collected like any other tax on the unsecured roll.

(f) The assessor shall provide to the principal office of each time-share project within the taxing jurisdiction, at the time and in the manner as he or she deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(g) The county may charge a fee for processing an application for separate assessment and for the initial and the ongoing costs, not to exceed the actual cost, of the separate assessment and billing, and mailings, with respect to a time-share project. This fee is subject to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code, and shall be proportionately allocated to each of the time-share estate owners. This fee may be collected commencing with the initial separate tax bills, and on subsequent tax bills, and deposited in the county's general fund.

(h) For purposes of this section, "time-share estate" applies to time-share estates, as defined in Section 11003.5 of the Business and Professions Code, that include a fee simple interest in the underlying

property involved. However, "time-share estate" does not include time-share estates that are coupled with a leasehold interest or an estate for years.

(i) Notwithstanding subdivision (a), when the assessor receives a written request to terminate the separate assessment of time-share estates in a time-share project under subdivision (a), the assessor shall, on the first lien date that occurs more than 60 days following the request, and on each lien date thereafter, prepare a single assessment for all time-share estates in the project. In order to obtain a single assessment, the person making the request shall provide certification that the request for a single consolidated assessment has been approved in the manner provided in the organization's documents. The person making the request shall also state the name and address of that organization as the organization to receive the single consolidated assessment. On the first lien date, and continuing thereafter, the county shall assess the time-share project. Any lien for taxes shall attach as if the election previously made under subdivision (a) had not been made, and the county shall no longer charge the fees described in subdivision (g).

SEC. 137. Section 2611.7 of the Revenue and Taxation Code is amended to read:

2611.7. (a) Upon the written request of a taxpayer made no later than September 1, a tax collector who has adopted this section pursuant to paragraph (4) of subdivision (c) shall, subject to subdivisions (b) and (c), issue a consolidated tax statement, for all of the properties entered on the secured roll with respect to which the requesting taxpayer is the assessee. An adopting tax collector shall annually print on the back of each property tax bill a written notice to each taxpayer of a taxpayer's authority under this section to request a consolidated tax statement, and of those fees, requirements, conditions, and limitations specified in subdivisions (b) and (c).

(b) Any request made pursuant to this section for a consolidated tax statement is subject to all of the following conditions:

(1) The request shall specify the assessor's parcel number of each property on the secured roll for which the requesting taxpayer is the assessee.

(2) With respect to any single parcel, only one named assessee may request and receive a consolidated tax statement.

(3) Any request that is timely made pursuant to this section for a consolidated tax statement is valid only for those property taxes levied for the first five fiscal years following the making of the request.

(c) (1) The tax collector may charge a fee for each request for a consolidated tax statement made pursuant to this section. Any fee charged pursuant to this paragraph shall be set at an amount not greater than that amount that will allow the tax collector to recover his or her costs incurred in implementing this section.

(2) A consolidated tax statement issued pursuant to a request made pursuant to this section is not a tax bill and does not supersede or take the place of any tax bill.

(3) No tax collector shall incur any legal liability with respect to any consolidated tax statement provided by the tax collector pursuant to this section.

(4) This section does not apply to a county unless the tax collector of that county has adopted this section pursuant to a written memorandum transmitted to the county board of supervisors and recorded with the county recorder.

SEC. 138. Section 4528 of the Revenue and Taxation Code is amended to read:

4528. (a) (1) The tax collector may sell tax certificates by any form of public or private sale, including, but not limited to, an auction, a negotiated sale, or a bulk sale. Except as provided in subdivision (c), the price received for a tax certificate shall not be less than the amount of taxes and assessments being assigned thereby. Prior to any sale of any tax certificates, the tax collector shall do all of the following:

(A) Determine the size of the offering and the parcels to be included in the sale.

(B) Determine the fees necessary to conduct the sale and maintain adequate tax certificate records.

(C) Establish rules and procedures for the making of offers on any tax certificate.

(D) Publish the determinations, fees, rules, and procedures described in this paragraph.

(E) Make these determinations, fees, rules, and procedures available to any person upon request.

(2) The tax collector has the right to accept or reject any or all bids in his or her sole discretion, subject to the determinations, fees, rules, and procedures described in paragraph (1).

(b) Except as provided in subdivision (c), the tax collector may not sell a tax certificate if any of the following apply:

(1) The parcel is not on the secured roll or supplemental roll.

(2) The parcel is owned by a governmental agency.

(3) The total amount of taxes and assessments to be assigned thereby is less than one hundred dollars (\$100), unless the parcel is included in a bulk sale.

(4) The parcel has a recorded public notice concerning pollution or contamination to the degree that the parcel poses a public health concern or environmental hazard.

(5) The parcel was subject to a proceeding in federal bankruptcy court prior to the sale of the tax certificate.

(6) The parcel was subject to any condemnation proceedings prior to the sale of the tax certificate.

(c) Notwithstanding subdivisions (a) and (b), the tax collector may sell or resell tax certificates for parcels described in paragraphs (3); (4), (5), and (6) of subdivision (b), any certificate subject to the Sailors and Soldiers Relief Act, and for parcels described in paragraph (5) of subdivision (a) of Section 4527, at a discount, in accordance with the determinations, fees, rules, and procedures published by the tax collector.

(d) If, pursuant to Section 4521, the tax collector is required to offer for sale a tax certificate for which there exists an outstanding tax certificate for the assignment of taxes and assessments for a previous year, until the date occurring six months after the date specified in Section 4521, the tax collector shall offer to sell the tax certificate to the holder of the outstanding tax certificate. The tax collector shall notify the holder of the outstanding tax certificate by certified mail of the default requiring the issuance of an additional tax certificate with respect to the same parcel, and of the tax certificate holder's right, until the date one month after the receipt of this notice, to purchase the additional certificate on the same terms as the outstanding certificate. In addition, the holder of the outstanding tax certificate shall have the right of first refusal to purchase the tax certificate with respect to the same parcel at the highest bid amount until all tax certificates with respect to that parcel are redeemed or canceled. During the six-month period, at the option of the holder of the most recently issued outstanding tax certificate, the tax collector shall sell the tax certificate to the holder of the outstanding tax certificate on the same terms as that outstanding tax certificate.

SEC. 139. Section 10753 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 228 of the Statutes of 1996, is amended to read:

10753. (a) Upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales, transactions, use, or other local tax. "Cost price" includes the value of any modifications made by the seller.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles, or modify the vehicle license fee classification of used vehicles determined pursuant to Section 10753.1 or 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372 of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) (1) In the event any commercial vehicle is modified or additions are made to the chassis or body at a cost of two thousand

dollars (\$2,000) or more, but not including any change of engine of the same type or any cost of repairs to a commercial vehicle, the owner of the commercial vehicle shall report any modification or addition to the department and the department shall classify or reclassify the commercial vehicle in its proper class as provided in Section 10753.1 or 10753.2, taking into consideration the increase in the market value of the commercial vehicle due to those modifications or additions, and any reclassification resulting in increase in market value shall be based on the cost to the consumer of those modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars (\$200) or more as reported to and determined by the department, the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2.

(2) Paragraph (1) does not apply under any of the following conditions:

(A) When the cost of any modification or addition to the chassis or body of a commercial vehicle is less than two thousand dollars (\$2,000).

(B) When the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975.

(C) When the cost is for modifications that are necessary to enable a disabled person to use or operate the vehicle.

(3) For purposes of this subdivision, "commercial vehicle" means a "commercial vehicle," as defined in Section 260 of the Vehicle Code, that is regulated by the Department of the Highway Patrol pursuant to Sections 2813 and 34500 of the Vehicle Code.

(d) This section also applies to a system as specified in subdivision (c) that is approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when that system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose

of subdivision (c), when that equipment is not owned by the owner of the vehicle.

(g) This section shall remain in effect only until January 1, 2000, and as of that date is repealed.

SEC. 140. Section 10753 of the Revenue and Taxation Code, as added by Section 2 of Chapter 228 of the Statutes of 1996, is amended to read:

10753. (a) Upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales, transactions, use, or other local tax. "Cost price" includes the value of any modifications made by the seller.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles, or modify the vehicle license fee classification of used vehicles determined pursuant to Section 10753.1 or 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372 of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) (1) In the event any vehicle is modified or additions are made to the chassis or body at a cost of two hundred dollars (\$200) or more, but not including any change of engine of the same type or any cost of repairs to a vehicle, the owner of the vehicle shall report any modification or addition to the department and the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2, taking into consideration the increase in the market value of the vehicle due to those modifications or additions, and any reclassification resulting in increase in market value shall be based on the cost to the consumer of those modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars (\$200) or more as reported to and determined by the department, the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2.

(2) Paragraph (1) does not apply to any of the following:

(A) When the cost of any modification or addition to the chassis or body of a vehicle is less than two hundred dollars (\$200).

(B) When the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975.

(C) When the cost is for modifications that are necessary to enable a disabled person to use or operate the vehicle.

(d) This section also applies to a system as specified in subdivision (c) that is approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when that system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose of subdivision (c), when that equipment is not owned by the owner of the vehicle.

(g) This section shall become operative on January 1, 2000.

SEC. 141. Section 19141.6 of the Revenue and Taxation Code is amended to read:

19141.6. (a) Each taxpayer determining its income subject to tax pursuant to Section 25101 or electing to file pursuant to Section 25110 shall, for income years beginning on or after January 1, 1994, maintain (in the location, in the manner, and to the extent prescribed in regulations that shall be promulgated by the Franchise Tax Board on or before December 31, 1995) and make available upon request all of the following:

(1) Any records as may be appropriate to determine the correct treatment of the components that are a part of one or more unitary businesses for purposes of determining the income derived from or attributable to this state pursuant to Section 25101 or 25110.

(2) Any records as may be appropriate to determine the correct treatment of amounts that are attributable to the classification of an item as business or nonbusiness income for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) Any records as may be appropriate to determine the correct treatment of the apportionment factors for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(4) Documents and information, including any questionnaires completed and submitted to the Internal Revenue Service that are necessary to audit issues involving attribution of income to the United States or foreign jurisdictions under Section 882 or Subpart F of Part III of Subchapter N, or similar sections, of the Internal Revenue Code.

(b) For purposes of this section:

(1) Information for any year shall be retained for that period of time in which the taxpayers' income or franchise tax liability to this state may be subject to adjustment, including all periods in which additional income or franchise taxes may be assessed, not to exceed eight years from the due date or extended due date of the return, or during which a protest is pending before the Franchise Tax Board, an appeal is pending before the State Board of Equalization, or a lawsuit is pending in the courts of this state or the United States with respect to California franchise or income tax.

(2) "Related party" means banks and corporations that are related because one owns or controls directly or indirectly more than 50 percent of the stock of the other or because more than 50 percent of the voting stock of each is owned or controlled, directly or indirectly, by the same interests.

(3) "Records" includes any books, papers, or other data.

(c) (1) If a bank or corporation subject to this section fails to maintain or fails to cause another to maintain records as required by subdivision (a), or willfully fails to comply substantially with Section 18634 requiring the filing of an information return, that bank or corporation shall pay a penalty of ten thousand dollars (\$10,000) for each income year with respect to which the failure occurs.

(2) If any failure described in paragraph (1) continues for more than 90 days after the day on which the Franchise Tax Board mails notice of the failure to the bank or corporation, that bank or corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of ten thousand dollars (\$10,000) for each 30-day period (or fraction thereof) during which the failure continues after the expiration of the 90-day period. The additional penalty imposed by this subdivision shall not exceed a maximum of fifty thousand dollars (\$50,000) if the failure to maintain or the failure to cause another to maintain is not willful. This maximum applies with respect to income years beginning on or after January 1, 1994, and before the earlier of the first day of the month following the month in which regulations are adopted pursuant to this section or December 31, 1995.

(3) For purposes of this section, the time prescribed by regulations to maintain records (and the beginning of the 90-day period after notice by the Franchise Tax Board) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Franchise Tax Board) reasonable cause existed for failure to maintain the records.

(d) (1) The Franchise Tax Board may apply the rules of paragraph (2) whether or not the board begins a proceeding to enforce a subpoena, or subpoena duces tecum, if subparagraphs (A), (B), and (C) apply:

(A) For purposes of determining the correct treatment under Part 11 (commencing with Section 23001) of the items described in

subdivision (a), the Franchise Tax Board issues a subpoena or subpoena duces tecum to a bank or corporation to produce (either directly or as agent for the related party) any records or testimony.

(B) The subpoena or subpoena duces tecum is not quashed in a proceeding begun under paragraph (3) and is not determined to be invalid in a proceeding begun under Section 19504 to enforce the subpoena or subpoena duces tecum.

(C) The bank or corporation does not substantially comply in a timely manner with the subpoena or subpoena duces tecum and the Franchise Tax Board has sent by certified or registered mail a notice to that bank or corporation that it has not substantially complied.

(D) If the bank or corporation fails to maintain or fails to cause another to maintain records as required by subdivision (a) and, by reason of that failure, the subpoena, or subpoena duces tecum, is quashed in a proceeding described in subparagraph (B) or the bank or corporation is not able to provide the records requested in the subpoena or subpoena duces tecum, the Franchise Tax Board may apply the rules of paragraph (2) to any of the items described in subdivision (a) to which the records relate.

(2) (A) All of the following shall be determined by the Franchise Tax Board in the Franchise Tax Board's sole discretion from the Franchise Tax Board's own knowledge or from information the Franchise Tax Board may obtain through testimony or otherwise:

(i) The components that are a part of one or more unitary businesses for purposes of determining the income derived from or attributable to this state pursuant to Section 25101 or 25110.

(ii) Amounts that are attributable to the classification of an item as business or nonbusiness income for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(iii) The apportionment factors for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(iv) The correct amount of income under Section 882 of, or Subpart F of Part III of, Subchapter N of, or similar sections of, the Internal Revenue Code.

(B) This paragraph shall apply to determine the correct treatment of the items described in subdivision (a) unless the bank or corporation is authorized by its related parties (in the manner and at the time as the Franchise Tax Board shall prescribe) to act as the related parties' limited agent solely for purposes of applying Section 19504 with respect to any request by the Franchise Tax Board to examine records or produce testimony related to any item described in subdivision (a) or with respect to any subpoena or subpoena duces tecum for the records or testimony. The appearance of persons or the production of records by reason of the bank or corporation being an agent shall not subject those persons or records to legal process for any purpose other than determining the correct treatment under Part 11 of the items described in subdivision (a).

(C) Determinations made in the sole discretion of the Franchise Tax Board pursuant to this paragraph may be appealed to the State Board of Equalization, in the manner and at a time as provided by Section 19045 or 19324, or may be the subject of an action to recover tax, in the manner and at a time as provided by Section 19382. The review of determinations by the board or the court shall be limited to whether the determinations were arbitrary or capricious, or are not supported by substantial evidence.

(3) (A) Notwithstanding any other law or rule of law, any reporting bank or corporation to which the Franchise Tax Board issues a subpoena or subpoena duces tecum referred to in subparagraph (A) of paragraph (1) shall have the right to begin a proceeding to quash the subpoena or subpoena duces tecum not later than the 90th day after the subpoena or subpoena duces tecum was issued. In that proceeding, the Franchise Tax Board may seek to compel compliance with the subpoena or subpoena duces tecum.

(B) Notwithstanding any other law or rule of law, any reporting bank or corporation that has been notified by the Franchise Tax Board that it has determined that the bank or corporation has not substantially complied with a subpoena or subpoena duces tecum referred to in paragraph (1) shall have the right to begin a proceeding to review the determination not later than the 90th day after the day on which the notice referred to in subparagraph (C) of paragraph (1) was mailed. If the proceeding is not begun on or before the 90th day, the determination by the Franchise Tax Board shall be binding and shall not be reviewed by any court.

(C) The superior courts of the State of California for the Counties of Los Angeles, Sacramento, and San Diego, and for the City and County of San Francisco have jurisdiction to hear any proceeding brought under subparagraphs (A) and (B). Any order or other determination in the proceeding shall be treated as a final order that may be appealed.

(D) If any bank or corporation takes any action as provided in subparagraphs (A) and (B), the running of any period of limitations under Sections 19057 to 19064, inclusive (relating to the assessment and collection of tax), or under Section 19704 (relating to criminal prosecutions), with respect to that bank or corporation shall be suspended for the period during which the proceedings, and appeals therein, are pending. In no event shall any period expire before the 90th day after the day on which there is a final determination in the proceeding.

SEC. 142. Section 19442 of the Revenue and Taxation Code is amended and renumbered to read:

19432. (a) Any outstanding tax, penalty, interest, or additions to tax for any bank or corporation that have accumulated since January 1, 1987, shall be canceled if all of the following conditions are met:

(1) The bank or corporation was incorporated prior to January 1, 1987.

(2) The bank or corporation has been suspended in connection with an income year commencing on or before December 1, 1987, pursuant to Section 23301 and has not been "doing business" as defined in Section 23101 since January 1, 1987.

(3) The bank or corporation has an outstanding liability for tax, penalty, interest, or additions to tax of more than two hundred dollars (\$200) and the tax liability for each income year for which a waiver is requested does not exceed the minimum tax applicable to that year.

(4) During the period from September 16, 1996, to December 31, 1998, inclusive, the bank or corporation applies for full corporate dissolution and waiver of tax, penalty, and interest, and pays a fee of two hundred dollars (\$200).

(b) This section shall remain in effect only until January 1, 1999, and as of that date is repealed.

SEC. 143. Section 3016 of the Vehicle Code is amended to read:

3016. (a) New motor vehicle dealers and other licensees under the jurisdiction of the board shall be charged fees sufficient to fully fund the activities of the board other than those conducted pursuant to Section 472.5 of the Business and Professions Code. The board may recover the direct cost of the activities required by Section 472.5 of the Business and Professions Code by charging the Department of Consumer Affairs a fee which shall be paid by the Department of Consumer Affairs with funds appropriated from the Certification Account in the Consumer Affairs Fund. All fees shall be deposited, and held separate from other moneys, in the Motor Vehicle Account in the State Transportation Fund, and shall not be transferred to the State Highway Account pursuant to Section 42273.

(b) The fees shall be available, when appropriated, exclusively to fund the activities of the board. If, at the conclusion of any fiscal year, the amount of fees collected exceeds the amount of expenditures for this purpose during the fiscal year, the surplus shall be carried over into the succeeding fiscal year.

SEC. 144. Section 22651.2 of the Vehicle Code is amended to read:

22651.2. (a) Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act when the vehicle is found upon a highway or any public lands, and if all of the following requirements are satisfied:

(1) Because of the size and placement of signs or placards on the vehicle, it appears that the primary purpose of parking the vehicle at that location is to advertise to the public an event or function on

private property or on public property hired for a private event or function to which the public is invited.

(2) The vehicle is known to have been previously issued a notice of parking violation that was accompanied by a notice warning that an additional parking violation may result in the impoundment of the vehicle.

(3) The registered owner of the vehicle has been mailed a notice advising of the existence of the parking violation and that an additional violation may result in the impoundment of the vehicle.

(b) Subdivision (a) does not apply to a vehicle bearing any sign or placard advertising any business or enterprise carried on by or through the use of that vehicle.

(c) Section 22852 applies to the removal of any vehicle pursuant to this section.

SEC. 145. Section 40513 of the Vehicle Code is amended to read:

40513. (a) Whenever written notice to appear has been prepared, delivered, and filed with the court, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead "guilty" or "nolo contendere."

If, however, the defendant violates his or her promise to appear in court or does not deposit lawful bail, or pleads other than "guilty" or "nolo contendere" to the offense charged, a complaint shall be filed that shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code, which shall be deemed to be an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him or her and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) Notwithstanding subdivision (a), whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed.

SEC. 146. Section 13399.3 of the Water Code is amended to read:

13399.3. (a) On or before January 1, 2000, the state board shall report to the Legislature on actions taken by the state board and the regional boards to implement this chapter and the results of that implementation. Each regional board shall provide the state board with the information that the state board requests to determine the degree to which the purposes described in subdivision (a) of Section 13399 have been achieved.

(b) This chapter shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2001, deletes or extends that date.

SEC. 147. Section 207.1 of the Welfare and Institutions Code is amended to read:

207.1. (a) No court, judge, referee, peace officer, or employee of a detention facility shall knowingly detain any minor in a jail or lockup, except as provided in subdivision (b) or (d).

(b) Any minor who is alleged to have committed an offense described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707 whose case is transferred to a court of criminal jurisdiction pursuant to Section 707.1 after a finding is made that he or she is not a fit and proper subject to be dealt with under the juvenile court law, or any minor who has been charged directly in or transferred to a court of criminal jurisdiction pursuant to Section 707.01, may be detained in a jail or other secure facility for the confinement of adults if all of the following conditions are met:

(1) The juvenile court or the court of criminal jurisdiction makes a finding that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.

(2) Contact between the minor and adults in the facility is restricted in accordance with Section 208.

(3) The minor is adequately supervised.

(c) A minor who is either found not to be a fit and proper subject to be dealt with under the juvenile court law or who will be transferred to a court of criminal jurisdiction pursuant to Section 707.01, at the time of transfer to a court of criminal jurisdiction or at the conclusion of the fitness hearing, as the case may be, shall be entitled to be released on bail or on his or her own recognizance upon the same circumstances, terms, and conditions as an adult who is alleged to have committed the same offense.

(d) (1) A minor 14 years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults, if all of the following conditions are met:

(A) The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.

(B) The minor is detained in the law enforcement facility for a period that does not exceed six hours except as provided in subdivision (g).

(C) The minor is informed at the time he or she is securely detained of the purpose of the secure detention, of the length of time

the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last. In the event an extension is granted pursuant to subdivision (g), the minor shall be informed of the length of time the extension is expected to last.

(D) Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.

(E) The minor is adequately supervised.

(F) A log or other written record is maintained by the law enforcement agency showing the offense that is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

(2) Any other minor, other than a minor to which paragraph (1) applies, who is taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602 may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. While in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within the facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six hours.

(3) "Law enforcement facility," as used in this subdivision, includes a police station or a sheriff's station, but does not include a jail, as defined in subdivision (i).

(e) The Board of Corrections shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

(1) The board shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.

(2) The board shall make available and, upon request, shall provide, technical assistance to each governmental agency that reported the confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance is to develop alternatives to the use of jails or lockups for the confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup, improved transportation or access to juvenile halls or other juvenile facilities, and other programmatic alternatives recommended by the board. The technical assistance shall take any form the board deems appropriate for effective compliance with this section.

(f) The Board of Corrections may exempt a county that does not have a juvenile hall, or may exempt an offshore law enforcement facility, from compliance with this section for a reasonable period of time, until December 1, 1992, for the purpose of allowing the county or the facility to develop alternatives to the use of jails and lockups for the confinement of minors, if all of the following conditions are met:

(1) The county or the facility submits a written request to the board for an extension of time to comply with this section.

(2) The board agrees to make available, and the county or the facility agrees to accept, technical assistance to develop alternatives to the use of jails and lockups for the confinement of minors during the period of the extension.

(3) The county or the facility requesting the extension submits to the board a written plan for full compliance with this section by September 1, 1987.

(g) (1) (A) Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted to a county by the Board of Corrections. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

(B) A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The county also shall provide a written report to the board that specifies when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

(2) Under the limited condition of temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted by the board to an offshore law enforcement facility. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall extend only until the next available mode of transportation can be arranged.

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The facility also shall provide a written report to the

board that specifies when the next mode of transportation became available, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

(3) At least annually, the board shall review and report on extensions sought and granted under this subdivision. If, upon that review, the board determines that a county has sought one or more extensions resulting in the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeking extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the board shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockups. Based upon the information provided by the county, the board also may place limits on, or refuse to grant, future extensions requested by the county under this subdivision.

(h) Any county that did not have a juvenile hall on January 1, 1987, may establish a special purpose juvenile hall, as defined by the Board of Corrections, for the detention of minors for a period not to exceed 96 hours. Any county that had a juvenile hall on January 1, 1987, also may establish, in addition to the juvenile hall, a special purpose juvenile hall. The board shall prescribe minimum standards for that type of facility.

(i) (1) "Jail," as used in this chapter, means any building that contains a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults who have been charged with violations of criminal law and are pending trial, or to hold convicted adult criminal offenders sentenced for less than one year.

(2) "Lockup," as used in this chapter, means any locked room or secure enclosure under the control of a sheriff or other peace officer that is primarily for the temporary confinement of adults upon arrest.

(3) "Offshore law enforcement facility," as used in this section, means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(j) Nothing in this section shall be deemed to prevent a peace officer or employee of an adult detention facility or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to Section 23157 of the Vehicle Code, if all of the following conditions are met:

(1) The minor is taken into custody by a peace officer on the basis of being a person described by Section 602 and there is no equipment for the administration of the evaluation, test, or chemical test located

at a juvenile facility within a reasonable distance of the point where the minor was taken into custody.

(2) The minor is not locked in a cell or room within the adult detention facility or jail, is under the continuous, personal supervision of a peace officer or employee of the detention facility or jail, and is not permitted to come in contact or remain in contact with in-custody adults.

(3) The evaluation, test, or chemical test administered pursuant to Section 23157 of the Vehicle Code is performed as expeditiously as possible, so that the minor is not delayed unnecessarily within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. No minor shall be held in custody in an adult detention facility or jail under the authority of this paragraph in excess of two hours.

SEC. 148. Section 366.21 of the Welfare and Institutions Code, as amended by Section 6.9 of Chapter 1084 of the Statutes of 1996, is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) (1) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally, by certified mail return receipt requested, or by any other form of actual notice is equivalent to service by first-class mail.

(2) The notice required by paragraph (1) shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing, the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parent or guardian to enable them to assume custody, the progress made, and, where relevant, the

prognosis for return of the minor to the physical custody of his or her parent or guardian, and shall make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent or guardian, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or guardian with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court-appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to such a hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) (1) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of the services provided. Whether or not the minor is returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366 and, where relevant, shall order any additional services reasonably believed to facilitate the return of the

minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that, if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

(2) If the minor was under the age of three years on the date of the initial removal and the court finds by clear and convincing evidence that the parent failed to participate regularly in any court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds that there is a substantial probability that the minor, who was under the age of three years on the date of initial removal, may be returned to his or her parent or guardian within six months or that reasonable services have not been provided, the court shall continue the case.

(3) If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or that the parent has failed to contact and visit the minor, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

(4) (A) If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

(B) In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services. If the minor is not returned to his or her parent or guardian, the court shall determine whether reasonable services have been provided or offered to the parent or guardian that were designed to aid the parent or guardian in overcoming the problems that led to the initial removal and the continued custody of the minor. The court shall order that those services be initiated, continued, or terminated.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional

well-being of the minor. The probation officer shall have the burden of establishing that detriment. The court shall also determine whether reasonable services have been provided or offered to the parent or guardian that were designed to aid the parent or guardian to overcome the problems that led to the initial removal and continued custody of the minor. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366. Whether or not the minor is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period for which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1) or (2) of subdivision (a) of Section 361.5, as appropriate, and a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or guardian. The court shall inform the parent or guardian that, if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or guardian.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not a proper subject for adoption and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26, if there is clear and convincing evidence that

reasonable services have been provided or offered to the parents. Evidence that the minor has been placed with a foster family that is eligible to adopt a minor, or has been placed in a preadoptive home, in and of itself, shall not be deemed a failure to provide or offer reasonable services.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment regarding the likelihood that the minor will be adopted if parental rights are terminated. The assessment shall include all of the following:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status and an analysis of whether any of the minor's characteristics would make it difficult to find a person willing to adopt the minor.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian; the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and, if so, a description of the condition.

(j) This section applies to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1999, deletes or extends that date.

SEC. 149. Section 366.21 of the Welfare and Institutions Code, as amended by Section 7.9 of Chapter 1084 of the Statutes of 1996, is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) (1) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally, by certified mail return receipt requested, or by any other form of actual notice is equivalent to service by first-class mail.

(2) The notice required by paragraph (1) shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing, the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parent or guardian to enable them to assume custody, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and shall make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent or guardian, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or guardian with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court-appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the

facility or agency shall file with the court a report containing its recommendation for disposition. Prior to such a hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) (1) (A) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided. Whether or not the minor is returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366 and, where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that, if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

(B) If the minor was under the age of three years on the date of the initial removal and the court finds by clear and convincing evidence that the parent failed to participate regularly in any court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the minor, who was under the age of three years on the date of initial removal, may be returned to his or her parent or guardian within six months or that reasonable services have not been provided, the court shall continue the case.

(2) If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or that the parent

has failed to contact and visit the minor, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

(3) (A) If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

(B) In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

(4) If the minor is not returned to his or her parent or guardian, the court shall determine whether reasonable services have been provided or offered to the parent or guardian that were designed to aid the parent or guardian in overcoming the problems that led to the initial removal and the continued custody of the minor. The court shall order that those services be initiated, continued, or terminated.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366. Whether or not the minor is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in paragraph

(1) or (2) of subdivision (a) of Section 361.5, as appropriate, and a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or guardian. The court shall inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or guardian.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not a proper subject for adoption and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26, if there is clear and convincing evidence that reasonable services have been provided or offered to the parents. Evidence that the minor has been placed with a foster family that is eligible to adopt a minor, or has been placed in a preadoptive home, in and of itself, shall not be deemed a failure to provide or offer reasonable services.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the minor and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that includes all of the following:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly

the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(j) This section applies to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

(k) This section shall become operative January 1, 1999.

SEC. 150. Section 5778 of the Welfare and Institutions Code is amended to read:

5778. (a) This section shall be limited to mental health services reimbursed through a fee-for-service payment system.

(b) During the initial phases of the implementation of this part, as determined by the department, the mental health plan contractor and subcontractors shall submit claims under the Medi-Cal program for eligible services on a fee-for-service basis.

(c) A qualifying county may elect, with the approval of the department, to operate under the requirements of a capitated, integrated service system field test pursuant to Section 5719.5 rather than this part, in the event that the requirements of the two programs conflict. A county that elects to operate under that section shall comply with all other provisions of this part that do not conflict with that section.

(d) (1) No sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services, and associated administrative days, shall be transferred to the department. No later than July 1, 1997, upon agreement between the department and the State Department of Health Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated with field test counties under Section 5719.5 shall be transferred to the department.

(2) The department, in consultation with the State Department of Health Services, a statewide organization representing counties, and a statewide organization representing health maintenance organizations, shall develop a timeline for the transfer of funding and responsibility for fee-for-service mental health services from Medi-Cal managed care plans to mental health plans. In developing the timeline, the department shall develop screening, referral, and

coordination guidelines to be used by Medi-Cal managed care plans and mental health plans.

(e) The department shall allocate the contracted amount at the beginning of the contract period to the mental health plan. The allocated funds shall be considered to be funds of the plan that may be held by the department. The department shall develop a methodology to ensure that these funds are held as the property of the plan and shall not be reallocated by the department or other entity of state government for other purposes.

(f) Beginning in the fiscal year following the transfer of funds from the State Department of Health Services, the state matching funds for Medi-Cal mental health services shall be included in the annual budget for the department. The amount included shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors.

(g) Initially, the mental health plans shall use the fiscal intermediary of the Medi-Cal program of the State Department of Health Services for the processing of claims for inpatient psychiatric hospital services and may be required to use that fiscal intermediary for the remaining mental health services. The providers for other Short-Doyle Medi-Cal services shall not be initially required to use the fiscal intermediary but may be required to do so on a date to be determined by the department. The department and its mental health plans shall be responsible for the initial incremental increased matching costs of the fiscal intermediary for claims processing and information retrieval associated with the operation of the services funded by the transferred funds.

(h) The mental health plans, subcontractors, and providers of mental health services shall be liable for all federal audit exceptions or disallowances based on their conduct or determinations. The mental health plan contractors shall not be liable for federal audit exceptions or disallowances based on the state's conduct or determinations. The department and the State Department of Health Services shall work jointly with mental health plans in initiating any necessary appeals. The State Department of Health Services may offset the amount of any federal disallowance or audit exception against subsequent claims from the mental health plan or subcontractor. This offset may be done at any time after the audit exception or disallowance has been withheld from the federal financial participation claim made by the State Department of Health Services. The maximum amount that may be withheld shall be 25 percent of each payment to the plan or subcontractor.

(i) The mental health plans shall have sufficient funds on deposit with the department, as the matching funds necessary for federal financial participation, to ensure timely payment of claims for acute psychiatric inpatient services and associated administrative days. The department and the State Department of Health Services, in

consultation with a statewide organization representing counties, shall establish a mechanism to facilitate timely availability of those funds. Any funds held by the state on behalf of a plan shall be deposited in a mental health managed care deposit fund and shall accrue interest to the plan. The department shall exercise any necessary funding procedures pursuant to Section 12419.5 of the Government Code and Sections 8776.6 and 8790.8 of the State Administrative Manual regarding county claim submission and payment.

(j) (1) The goal for funding of the future capitated system shall be to develop statewide rates for beneficiary, by aid category and with regional price differentiation, within a reasonable time period. The formula for distributing the state matching funds transferred to the department for acute inpatient psychiatric services to the participating counties shall be based on the following principles:

(A) Medi-Cal state General Fund matching dollars shall be distributed to counties based on historic Medi-Cal acute inpatient psychiatric costs for the county's beneficiaries and on the number of persons eligible for Medi-Cal in that county.

(B) All counties shall receive a baseline based on historic and projected expenditures up to October 1, 1994.

(C) Projected inpatient growth for the period from October 1, 1994, to June 30, 1995, inclusive, shall be distributed to counties below the statewide average per eligible person on a proportional basis. The average shall be determined by the relative standing of the aggregate of each county's expenditures of mental health Medi-Cal dollars per beneficiary. Total Medi-Cal dollars shall include both fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for acute inpatient psychiatric services, outpatient mental health services, and psychiatric nursing facility services, both in facilities that are not designated as institutions for mental disease and for beneficiaries who are under 22 years of age and beneficiaries who are over 64 years of age in facilities that are designated as institutions for mental disease.

(D) There shall be funds set aside for a self-insurance risk pool for small counties. The department may provide these funds directly to the administering entity designated in writing by all counties participating in the self-insurance risk pool. The small counties shall assume all responsibility and liability for appropriate administration of these funds. Nothing in this paragraph in any way obligates the state or the department to provide or make available any additional funds beyond the amount initially appropriated and set aside for each particular fiscal year, unless otherwise authorized in statute or regulations, nor shall the state or the department be liable in any way for mismanagement or loss of funds by the entity designated by the counties under this paragraph.

(2) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994-95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse mental health plans in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the mental health plan for risk reinsurance, acute inpatient psychiatric services and associated administrative days, or alternatives to hospital services as approved by participating small counties, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through a statewide organization representing counties, in consultation with the department.

(B) The balance of the transfer amount for the 1994-95 fiscal year shall be allocated to counties based on the following formula:

| County | Percentage |
|--------------------|------------|
| Alameda | 3.5991 |
| Alpine | .0050 |
| Amador | .0490 |
| Butte | .8724 |
| Calaveras | .0683 |
| Colusa | .0294 |
| Contra Costa | 1.5544 |
| Del Norte | .1359 |
| El Dorado | .2272 |
| Fresno | 2.5612 |
| Glenn | .0597 |
| Humboldt | .1987 |
| Imperial | .6269 |
| Inyo | .0802 |
| Kern | 2.6309 |
| Kings | .4371 |
| Lake | .2955 |
| Lassen | .1236 |
| Los Angeles | 31.3239 |
| Madera | .3882 |
| Marin | 1.0290 |
| Mariposa | .0501 |
| Mendocino | .3038 |
| Merced | .5077 |

| | |
|-----------------------|---------|
| Modoc | .0176 |
| Mono | .0096 |
| Monterey | .7351 |
| Napa | .2909 |
| Nevada | .1489 |
| Orange | 8.0627 |
| Placer | .2366 |
| Plumas | .0491 |
| Riverside | 4.4955 |
| Sacramento | 3.3506 |
| San Benito | .1171 |
| San Bernardino | 6.4790 |
| San Diego | 12.3128 |
| San Francisco | 3.5473 |
| San Joaquin | 1.4813 |
| San Luis Obispo | .2660 |
| San Mateo | .0000 |
| Santa Barbara | .0000 |
| Santa Clara | 1.9284 |
| Santa Cruz | 1.7571 |
| Shasta | .3997 |
| Sierra | .0105 |
| Siskiyou | .1695 |
| Solano | .0000 |
| Sonoma | .5766 |
| Stanislaus | 1.7855 |
| Sutter/Yuba | .7980 |
| Tehama | .1842 |
| Trinity | .0271 |
| Tulare | 2.1314 |
| Tuolumne | .2646 |
| Ventura | .8058 |
| Yolo | .4043 |

(3) For purposes of this subdivision, "small counties" means counties with less than 200,000 population.

(4) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other mental health services shall be determined by the department in consultation with a statewide organization representing counties.

(l) The allocation methodologies described in this section shall be in effect only while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated, the department, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements.

(m) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties. This formula shall be in effect only while federal financial participation is received on a fee-for-service reimbursement basis.

(n) Upon the transfer of funds from the budget of the State Department of Health Services to the department pursuant to subdivision (d), the department shall assume the applicable program oversight authority formerly provided by the State Department of Health Services, including, but not limited to, the oversight of utilization controls as specified in Section 14133. The mental health plan shall include a requirement in any subcontracts that all inpatient subcontractors maintain necessary licensing and certification. Mental health plans shall require that services delivered by licensed staff are within their scope of practice. Nothing in this part prohibits the mental health plans from establishing standards that are in addition to the minimum federal and state requirements, provided that these standards do not violate federal and state Medi-Cal requirements and guidelines.

(o) Subject to federal approval and consistent with state requirements, the mental health plan may negotiate rates with providers of mental health services.

(p) Under the fee-for-service payment system, any excess in the payment set forth in the contract over the expenditures for services by the plan shall be spent for the provision of mental health services and related administrative costs.

(q) Nothing in this part limits the mental health plan from being reimbursed appropriate federal financial participation for any qualified services, even if the total expenditures for service exceeds the contract amount with the department. Matching nonfederal public funds shall be provided by the plan for the federal financial participation matching requirement.

SEC. 151. Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, as added by Chapter 762 of the Statutes of 1995, is repealed.

SEC. 152. Section 7325 of the Welfare and Institutions Code is amended to read:

7325. (a) When any patient committed by a court to a state hospital or other institution on or before June 30, 1969, or when any patient who is judicially committed on or after July 1, 1969, or when

any patient who is involuntarily detained pursuant to Part 1 (commencing with Section 5000) of Division 5 escapes from any state hospital, any hospital or facility operated by or under the Veterans' Administration of the United States government, or any facility designated by a county pursuant to Part 1 (commencing with Section 5000) of Division 5, or any facility into which the patient has been placed by his or her conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, or when a judicially committed patient's return from leave of absence has been authorized or ordered by the State Department of Mental Health, or the State Department of Developmental Services, or the facility of the Veterans' Administration, any peace officer, upon written request of the state hospital, veterans' facility, or the facility designated by a county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, shall, without the necessity of a warrant or court order, or any officer or employee of the State Department of Mental Health, or of the State Department of Developmental Services, designated to perform these duties may, apprehend, take into custody, and deliver the patient to the state hospital or to a facility of the Veterans' Administration, or the facility designated by a county, or to any person or place authorized by the State Department of Mental Health, the State Department of Developmental Services, the Veterans' Administration, the local director of the county mental health program of the county in which is located the facility designated by the county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, as the case may be, to receive him or her. Every officer or employee of the State Department of Mental Health, or of the State Department of Developmental Services, designated to apprehend or return those patients has the powers and privileges of peace officers so far as necessary to enforce this section.

(b) As used in this section, "peace officer" means a person as specified in Section 830.1 of the Penal Code.

(c) Any officer or employee of a state hospital, hospital or facility operated by or under the Veterans' Administration, or any facility designated by a county pursuant to Part 1 (commencing with Section 5000) of Division 5 shall provide any peace officer with any information concerning any patient who escapes from the hospital or facility that is necessary to assist in the apprehension and return of the patient. The written notification of the escape required by this section shall include the name and physical description of the patient, his or her home address, the degree of dangerousness of the patient, including specific information about the patient if he or she is deemed likely to cause harm to himself or herself or to others, and any additional information that is necessary to apprehend and return the patient. If the escapee has been charged with any crime involving

physical harm to children, the notice shall be provided by the law enforcement agency to school districts in the vicinity of the hospital or other facility in which the escapee was being held, in the area the escapee is known or is likely to frequent, and in the area where the escapee resided immediately prior to confinement.

(d) The person in charge of the hospital or facility, or his or her designee, may provide telephonic notification of the escape to the law enforcement agency of the county or city in which the hospital or facility is located. If that notification is given, the time and date of notification, the person notified, and the person making the notification shall be noted in the written notification required by this section.

(e) Photocopying is not required in order to satisfy the requirements of this section.

(f) No public or private entity or public or private employee shall be liable for damages caused, or alleged to be caused, by the release of information or the failure to release information pursuant to this section.

SEC. 153. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group home not organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided, using a point system developed by the department and described in the report, "The Classification of Group Home Programs Under the Standardized Schedule of Rates System," prepared by the State Department of Social Services August 30, 1989.

(c) The rate for each rate classification level (RCL) has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986-87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453.

The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, "standardized schedule of rates" means a listing of the 14 rate classification levels, the single rate established for each RCL, and the rate floor for each RCL.

(e) The standardized schedule of rates shall be phased in commencing July 1, 1990.

(1) In order to phase in the standardized schedule of rates, a "rate floor" has been established for each RCL.

(2) The rate floor for fiscal year 1990-91 shall be 85 percent of the standard rate for each RCL. The rate floor shall be increased to 92.5 percent of the standard rate for fiscal year 1991-92 for each RCL, shall be equal to the standard rate for each RCL for the period July 1, 1992, to September 13, 1992, inclusive, and shall be 92.5 percent of the standard rate for each RCL for the period September 14, 1992, to June 30, 1993, inclusive.

(3) The rate floor for each RCL shall be 95 percent of the standard rate for each RCL for the 1993-94 fiscal year. The rate floor shall be equal to the standard rate for each RCL for the 1994-95 fiscal year and beyond.

(f) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) For a group home program for which the department established a rate effective prior to June 30, 1990, that took into account the program's historical costs, the department shall establish the rate for fiscal year 1990-91 by determining the RCL on a retrospective basis, according to the level of care and services actually provided between July 1 and December 31, 1989, or between July 1, 1989, and March 31, 1990.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall so inform the department. The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(3) The department shall not reduce the rate, establish an overpayment, or take other action pursuant to paragraph (2) for any period that a group home program maintains the level of care and services associated with the RCL for children actually residing in the facility. Determinations of levels of care and services shall be made in the same way as modifications of overpayments are made pursuant to paragraph (2) of subdivision (b) of Section 11466.2.

(4) Beginning July 1, 1994, for group homes paid at rates below the standard rate established by subdivision (g), a group home program shall remain at its current RCL if it maintains at least the level of care and services associated with that percentage of the points required to be at that RCL that equals the percentage of the standard rate used to establish the group home's rate. In no event, however, may points per child per month be reduced more than 10 points below the minimum required for the current RCL. The RCL for a program shall not increase due to the operation of this paragraph absent any program changes approved by the department pursuant to subdivision (k).

(5) A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(g) The standardized schedule of rates for fiscal year 1990-91 is:

FY 1990-91

| Classification Level | Point Ranges | Standard Rate | Rate Floor (85%) |
|-------------------------|--------------|------------------|------------------------|
| 1 | Under 60 | \$1,183 | \$1,006 |
| 2 | 60-89 | 1,478 | 1,256 |
| 3 | 90-119 | 1,773 | 1,507 |
| 4 | 120-149 | 2,067 | 1,757 |
| 5 | 150-179 | 2,360 | 2,006 |
| 6 | 180-209 | 2,656 | 2,258 |
| 7 | 210-239 | 2,950 | 2,508 |
| 8 | 240-269 | 3,245 | 2,758 |
| 9 | 270-299 | 3,539 | 3,008 |
| 10 | 300-329 | 3,834 | 3,259 |
| 11 | 330-359 | 4,127 | 3,508 |
| 12 | 360-389 | 4,423 | 3,760 |
| 13 | 390-419 | 4,720 | 4,012 |
| 14 | 420 & Up | 5,013 | 4,261 |

(h) (1) For fiscal year 1990-91, the standardized schedule of rates shall be implemented as follows:

(A) Any group home program that received an AFDC-FC rate in the prior fiscal year below the standard rate for the fiscal year 1990-91 RCL shall receive their 1989-90 rate plus an amount equal to the

California Necessities Index (CNI). The rate for fiscal year 1990-91 at which the state will participate shall not exceed the standard rate for the RCL.

(B) If the CNI increase to the group home program's fiscal year 1989-90 rate does not raise the group home program to the rate floor for the RCL, the group home program shall receive a rate equal to the rate floor for the RCL.

(C) A group home program that received an AFDC-FC rate for fiscal year 1989-90 at or above the standard rate for the RCL for fiscal year 1990-91 shall continue to receive that fiscal year 1989-90 rate.

(2) For that portion of the 1997-98 fiscal year, commencing on November 1, 1997, and the 1998-99 fiscal year, the standardized rate for each RCL shall be adjusted by an amount equal to the California Necessities Index computed pursuant to the methodology described in Section 11453.

(A) Any group home program that received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) A group home program that received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive that rate adjusted by an amount equal to the CNI. The rate for the current fiscal year shall not exceed the standard rate for the RCL and shall not be less than the rate floor for the RCL.

(3) Beginning with the 1999-2000 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds.

(A) Any group home program that received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) Any group home program that received an AFDC-FC rate in the prior fiscal year below the adjusted standard rate for the RCL in the current fiscal year shall receive the adjusted RCL rate.

(i) (1) (A) The rate for a new group home program of a new or existing provider shall be established at the rate floor for the new program's projected RCL.

(B) On and after the operative date of this subparagraph, the department shall not, prior to July 1, 1993, establish a rate for a new group home program of a new or existing provider.

(2) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the

placing agency to need the level of care and services that will be provided by the program.

(3) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(4) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Section 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) (1) For the purpose of this subdivision, "program change" means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

(2) (A) Prior to July 1, 1993, the rate for a group home program may not increase, as the result of a program change, from the rate established for the program effective June 30, 1992. For rate increases as a result of a program change that became effective between July 1, 1992, and the effective date of this paragraph, the department shall adjust rates downward as necessary to comply with this chapter. Notwithstanding any other provision of law, a group home provider shall be allowed to change a group home program to reflect a decrease in services due to the provisions of this paragraph.

(B) For the 1993-94 fiscal year, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 1993, except as provided in paragraph (3).

(C) For the 1994-95 fiscal year, the 1995-96 fiscal year, and the 1996-97 fiscal year, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 1994, except as provided in paragraph (3).

(3) (A) For the 1993-94 fiscal year, the 1994-95 fiscal year, the 1995-96 fiscal year, and the 1996-97 fiscal year, the department shall not establish a rate for a new program of a new or existing provider or approve a program change for an existing provider that either increases the program's RCL or AFDC-FC rate, or increases the licensed capacity of the program as a result of decreases in another program with a lower RCL or lower AFDC-FC rate that is operated

by that provider, unless both of the conditions specified in this paragraph are met.

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The county determines that there is no increased cost to the General Fund.

(B) Notwithstanding subparagraph (A), the department may grant a request for a new program or program change, not to exceed 25 beds, statewide, if (i) the licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program, and (ii) the new program or program change will result in a reduction of referrals to state hospitals during the 1993-94 fiscal year, the 1994-95 fiscal year, the 1995-96 fiscal year, or the 1996-97 fiscal year.

(I) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section. The donations and contributions shall not be considered in any determination of maximum expenditures made by the department.

(m) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care that may have significant fiscal impact on providers of group homes care. The committee may, in the 1993-94 fiscal year and thereafter, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

(n) This section shall become operative on July 1, 1995.

SEC. 154. Section 14490 of the Welfare and Institutions Code is amended to read:

14490. In providing benefits under this chapter and Chapter 7 (commencing with Section 14000), the director shall aggressively seek the development of alternative forms of financing and delivering health care services. In carrying out the intent of this article, the director shall contract with institutional providers, counties, or other organizations to establish pilot programs that demonstrate the value, or lack thereof, of such a program in delivering or financing health care services in such a manner. Each pilot program shall be for a specified duration not to exceed five years, and each pilot program shall be evaluated annually for its efficiency, effectiveness, and quality.

Upon a finding by the director that a pilot program contributes substantially to the availability of high quality health services and that those services are cost-effective, the director shall enter into a contract for a period of up to five years.

Where the director recommends implementation of a pilot program on a permanent basis, but finds that he or she is not able to implement on a permanent basis that program immediately upon conclusion of the program's term, he or she may extend the duration of the pilot program until the evaluation or permanent implementation can be accomplished. The extension shall be for a term not in excess of one year, but may be renewed for additional one-year terms, provided that the director has completed an evaluation to include findings that would qualify an extension.

SEC. 155. Section 6 of Chapter 920 of the Statutes of 1994, as last amended by Chapter 1143 of the Statutes of 1996, is amended to read:

Sec. 6. It is the intent of the Legislature that the tables set forth below indicating the derivation of the Elections Code sections as contained in Section 2 of this act, and the disposition of the provisions of the 1961 Elections Code, serve as a temporary guide to the Elections Code as enacted by this act.

The information contained in the tables set forth below is for informational purposes only, and shall not be construed as creating any new right, power, duty, or other obligation, or as changing, limiting, or repealing any right, power, duty, or other obligation that existed on the effective date of this act.

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SEC. 156. Section 5 of Chapter 76 of the Statutes of 1996 is amended to read:

Sec. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide guidance and clarification that is essential to the fair and efficient taxation of intercounty pipeline rights-of-way, it is necessary that this act take effect immediately.

SEC. 157. Section 1 of Chapter 663 of the Statutes of 1996 is amended to read:

Section 1. The Legislature finds and declares as follows:

(a) That Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, commonly referred to as the Joint Exercise of Powers Act, allows two or more public agencies to enter into agreements to jointly exercise their common powers.

(b) That Section 65101 of the Government Code allows two or more cities and counties to create joint area planning agencies to exercise the powers and perform the duties of the Planning and Zoning Law, as set forth in Title 7 (commencing with Section 65000) of the Government Code.

(c) That the County of Riverside, the City of Moreno Valley, the City of Perris, and the City of Riverside have formed a joint powers agency, called the March Joint Powers Authority to coordinate and promote the reuse of the March Air Force Base and adjacent territory.

(d) That existing law allows the March Joint Powers Authority to exercise the powers and perform the duties of the legislative body or any other planning agency of a city, county, or city and county under the Planning and Zoning Law, if authorized by the joint powers agreement that governs the authority. This finding is consistent with the opinion of the Legislative Counsel of California, No. 24940, dated August 1, 1996, printed in the Senate Daily Journal for the 1995-96 Regular Session of the California Legislature of August 23, 1996, at pages 5811 to 5815, inclusive.

(e) The March Joint Powers Authority may exercise the powers and perform the duties set forth in the Planning and Zoning Law within the territory specified by and pursuant to the terms of the joint powers agreement which governs the authority.

(f) The findings and declarations contained in this act do not constitute a change in, but are declaratory of, existing law.

(g) This act does not affect the authority of a local agency, under provisions of law as they read on the effective date of this act, to perform any function set forth in this act.

SEC. 158. Section 1 of Chapter 947 of the Statutes of 1996 is amended to read:

Section 1. (a) The sum of two million two hundred fifty thousand dollars (\$2,250,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1996-97 fiscal year only, for allocation to the Los Angeles Unified School District for the purpose of providing an early intervention program for at-risk pupils in grades 6 to 8, inclusive, who are otherwise eligible to be served by community day schools pursuant to Section 48662 of the Education Code. This early intervention program shall include the following:

(1) Pupil attendance at an intensive residential program located at a site other than the regular campus for a five-week period. The program shall include at least 175 hours of direct instruction, 25 hours of study hall, counseling services, and instruction in conflict resolution.

(2) Attendance by participating pupils in a course of study determined by the school district to be appropriate for pupils identified pursuant to Section 48662 of the Education Code for the remainder of the school year.

(3) Twelve hours of training for parents of pupils attending the residential program.

(b) The Los Angeles Unified School District may contract with an outside public entity for the provision of the intensive residential program specified in subdivision (a) if the public entity has provided that type of service for at least two years, and can demonstrate that attendance by pupils in the residential program has improved pupils' regular school attendance and has lowered the number of pupil suspensions or pupil referrals for disciplinary action by at least 60 percent.

(c) The State Department of Education shall conduct a review of the early intervention program operated by the Los Angeles Unified School District and shall report the findings of the review to the Legislature on or before January 31, 1997.

(d) For purposes of making computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995-96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code for the 1995-96 fiscal year.

SEC. 159. Any section of any act enacted by the Legislature during the 1997 calendar year that takes effect on or before January 1, 1998, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and

addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 1997 calendar year and takes effect on or before January 1, 1998, amends, amends and rennumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

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**Amended Test Claim of:
County of Tuolumne**

Volume II

**SEX OFFENDERS: DISCLOSURE BY LAW ENFORCEMENT
OFFICERS ("MEGAN'S LAW")**

97-TC-15

EXHIBITS

Exhibit 6

Assembly Bill No. 213

CHAPTER 80

An act to amend Section 290 of the Penal Code, relating to sex offenders.

[Approved by Governor July 21, 1997. Filed with
Secretary of State July 21, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 213, Wildman. Sex offenders: registration.

Existing law generally requires specified sex offenders to register with local law enforcement officials within 5 working days of coming into a city, county, or city and county in which the offender temporarily resides or is domiciled for that length of time. Those who are required to register include persons who have been convicted in any other court, including any federal or military court, of any offense that, if committed in this state, would have been punishable as a sex offense in this state.

This bill would clarify that the registration requirement applies to persons who have been convicted of an offense in another state court that, if committed in this state, would have been punishable as a sex offense in this state. The bill also would require the registration to include a notice to these persons that they have a duty to register in any state where they may relocate.

This bill would require the Attorney General to work with local law enforcement agencies to determine whether the existing state registry of sex offenders is meeting the needs of law enforcement, to work with the chief law enforcement officers of other states to develop a national registry of sex offenders, and to work with Attorney Generals of other states to enact amendments to existing registration statutes that inform persons required to register as sex offenders of their responsibility to register in any state where they may relocate.

The people of the State of California do enact as follows:

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its

facilities, within five working days of coming into any city, county, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within five working days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her name and address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, kidnapping, as punishable pursuant to subdivision (d) of Section 208, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (d) of Section 647, subdivision 1 or 2 of Section 314, any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A) or any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, subdivision (a) of Section 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law

enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of subdivision (f), he or she may have a duty to register in any other state where he or she may relocate.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her name or residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with whom he or she last registered of the new name or address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in subdivisions (m) and (n) and Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(lc) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in

Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(I) (1) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(2) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(m) (1) When a peace officer reasonably suspects, based on information that has come to his or her attention through information provided by any peace officer or member of the public, that a child or other person may be at risk from a sex offender convicted of a crime listed in paragraph (1) of subdivision (a) of Section 290.4, a law enforcement agency may, notwithstanding any other provision of law, provide any of the information specified in paragraph (2) of this subdivision about that registered sex offender that the agency deems relevant and necessary to protect the public, to the following persons, agencies, or organizations the offender is likely to encounter, including, but not limited to, the following:

(A) Public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender.

(B) Other community members at risk.

(2) The information that may be disclosed pursuant to this section includes the following:

(A) The offender's full name.

(B) The offender's known aliases.

(C) The offender's gender.

(D) The offender's race.

(E) The offender's physical description.

(F) The offender's photograph.

(G) The offender's date of birth.

(H) Crimes resulting in registration under this section.

(I) The offender's address, which must be verified prior to publication.

(J) Description and license plate number of offender's vehicles or vehicles the offender is known to drive.

(K) Type of victim targeted by the offender.

(L) Relevant parole or probation conditions, such as one prohibiting contact with children.

(M) Dates of crimes resulting in classification under this section.

(N) Date of release from confinement.

However, information disclosed pursuant to this subdivision shall not include information that would identify the victim.

(3) If a law enforcement agency discloses information pursuant to this subdivision, it shall include, with the disclosure, a statement that the purpose of the release of the information is to allow members of the public to protect themselves and their children from sex offenders.

(4) For purposes of this section, "likely to encounter" means both of the following:

(A) That the agencies, organizations, or other community members are in a location or in close proximity to a location where the offender lives or is employed, or that the offender visits or is likely to visit on a regular basis.

(B) The types of interaction that ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably probable.

(5) For purposes of this section, "reasonably suspects" means that it is objectively reasonable for a peace officer, to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect that a child or other person is at risk.

(6) For purposes of this section, "at risk" means a person is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.

(7) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is included in Section 290.4.

(n) In addition to the procedures set forth elsewhere in this section, a law enforcement agency may advise the public of the presence of high-risk sex offenders in its community pursuant to this subdivision.

(1) For purposes of this subdivision:

(A) A high-risk sex offender is a person who has been convicted of an offense for which registration is required under paragraph (2) of subdivision (a) and also meets one of the following criteria:

(i) Has been convicted of three or more violent sex offenses, at least two of which were brought and tried separately.

(ii) Has been convicted of two violent sex offenses and one or more violent nonsex offenses, at least two of which were brought and tried separately.

(iii) Has been convicted of one violent sex offense and two or more violent nonsex offenses, at least two of which were brought and tried separately.

(iv) Has been convicted of either two violent sex offenses or one violent sex offense and one violent nonsex offense, at least two of which were brought and tried separately, and has been arrested on separate occasions for three or more violent sex offenses, violent nonsex offenses, or associated offenses.

(B) A violent sex offense means any offense defined in Section 220, except attempt to commit mayhem, 261, 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily injury during the commission of a sex offense, as provided in Section 12022.8.

(C) A violent nonsex offense means any offense defined in Section 187, subdivision (a) of Section 192, 203, 206, 207, 236, provided that the offense is a felony, subdivision (a) of Section 273a, 273d, or 451, or attempted murder, as defined in Sections 187 and 664.

(D) An associated offense means any offense defined in Section 243.4, provided that the offense is a felony, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, 314, 459, provided the offense is of the first degree, 597, 646.9, subdivision (d), (h), or (i) of Section 647, 653m, or infliction of great bodily injury during the commission of a felony, as defined in Section 12022.7.

(E) For purposes of subparagraphs (B) to (D), inclusive, an arrest or conviction for the statutory predecessor of any of the enumerated offenses, or an arrest or conviction in any other jurisdiction for any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement:

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "Law enforcement agency" means any of the following: municipal police department; sheriff's department; district attorney's office; county probation department; Department of Justice; Department of Corrections; Department of the Youth Authority; Department of the California Highway Patrol; or the police department of any state university, state college, or community college.

(2) The Department of Justice shall continually search the records provided to it pursuant to subdivision (b) and identify, on the basis of those records, high-risk sex offenders. Four times each year, the department shall provide to each chief of police and sheriff in the state, and to any other law enforcement agency upon request, the following information regarding each identified high-risk sexual offender: full name; known aliases; gender; race; physical description; photograph; date of birth; and crimes resulting in classification under this section.

(3) The Department of Justice and any law enforcement agency to which notice has been given pursuant to paragraph (2) may cause to be made public, by whatever means the agency deems necessary to ensure the public safety, based upon information available to the agency concerning a specific person, including, but not limited to, the information described in paragraph (2); the offender's address, which shall be verified prior to publication; description and license plate number of the vehicles or vehicles the offender is known to drive; type of victim targeted by the offender; relevant parole or probation conditions, such as one prohibiting contact with children; dates of crimes resulting in classification under this section; and date of release from confinement; but excluding information that would identify the victim.

(o) Agencies disseminating information to the public pursuant to subdivision (m) shall maintain records of the offender and the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(q) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of

imprisonment in the state prison. Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(r) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

SEC. 2. The Attorney General shall do all of the following:

(a) Work with local law enforcement agencies to determine whether the existing registry of sex offenders established by Section 290 of the Penal Code is meeting the needs of law enforcement. The Attorney General shall report to the Legislature by December 31, 1998, on his or her findings.

(b) Work with the chief law enforcement officers of other states to develop a national registry of sex offenders, as required by federal law. The registry should include persons who are required to register in any state and should specifically mark those offenders who are registered in multiple states.

(c) Work with Attorney Generals of other states to amend registration statutes to inform persons required to register as sex offenders of their responsibility to register in any other state where they may relocate.

SEC. 3. The Legislature finds and declares that the amendments made to subparagraphs (D) and (E) of paragraph (2) of subdivision

(a) of Section 290 of the Penal Code, as set forth in Section 1 of this act, do not constitute a change in, but are declaratory of, existing law.

Exhibit 7

Assembly Bill No. 59

CHAPTER 817

An act to amend Sections 208, 209, 290, 290.4, 667.7, 667.71, 667.8, 667.83, 667.85, 1170.1, 1203.066, and 2933.5 of, and to repeal and amend Section 667.61 of, the Penal Code, relating to crimes.

[Approved by Governor October 8, 1997. Filed
with Secretary of State October 9, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 59, Brown. Crimes: kidnapping.

(1) Existing law provides that any person who kidnaps another with the intent to commit rape, oral copulation, sodomy, or rape by instrument, shall be punished by imprisonment in the state prison for 5, 8, or 11 years.

This bill would delete this provision and would provide instead that under specified circumstances any person who kidnaps or carries away any individual with the intent to commit robbery, rape, spousal rape, sodomy, oral copulation, or rape by instrument shall be punished by imprisonment in the state prison for life with the possibility of parole. By expanding the scope of existing crimes, the bill would impose a state-mandated local program. The bill also would make additional conforming changes.

(2) Existing law defines a habitual sexual offender as a person who previously has been convicted of one or more specified sexual offenses and who is convicted in the present proceeding of one of those offenses.

This bill would add kidnapping with the intent to commit rape, spousal rape, oral copulation, sodomy, lewd or lascivious acts, and rape by instrument to the list of sexual offenses specified for the purpose of the definition of a habitual sexual offender.

(3) Existing law provides that any person who is convicted of any specified felony sexual offense, and who, for the purpose of committing that sexual offense, kidnapped the victim, as specified, shall be punished by an additional 9-year term.

Existing law also provides that any person who is convicted of any specified felony sexual offense, and who, for the purpose of committing that sexual offense, kidnapped the victim, who was under the age of 14 years at the time, as specified, shall be punished by an additional 15-year term.

This bill would specify other types of kidnapping to which these provisions shall apply.

(4) Existing law provides that every person who is convicted of any specified felony, and who previously has been convicted 2 or

more times, on charges separately brought and tried, and who previously has served 2 or more separate prior prison terms of any of those felonies, shall be ineligible to earn credit on his or her term of imprisonment.

This bill would add specified types of kidnapping to the list of felonies for which credit cannot be earned.

(5) Existing law requires specified sexual offenders to register with local law enforcement agencies and makes it a felony to willfully fail to register.

This bill would add specified types of kidnapping to the list of offenses that subject a person to these provisions. By expanding the scope of a crime and by imposing additional registration duties on local law enforcement agencies, the bill would impose a state-mandated local program.

(6) Existing law generally provides that when 2 or more specified enhancements may be imposed for any single offense, only the greatest enhancement shall apply. Existing law provides, however, that in specified cases the court may impose both one enhancement for weapons and one enhancement for great bodily injury.

This bill would provide that the court may also impose both one enhancement for weapons and one enhancement for great bodily injury in cases of kidnapping to commit robbery or kidnapping during, and in order to facilitate, the commission of a carjacking.

(7) This bill would also incorporate additional changes in Section 290 of the Penal Code enacted by AB 213 (Ch. 80, Stats. 1997).

(8) This bill would also incorporate additional changes in Section 290.4 of the Penal Code proposed by AB 290, SB 314, and SB 1078, to be operative only if one or more of those bills and this bill are enacted and become effective on or before January 1, 1998, and this bill is enacted last.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 208 of the Penal Code is amended to read:

208. (a) Kidnapping is punishable by imprisonment in the state prison for three, five, or eight years.

(b) If the person kidnapped is under 14 years of age at the time of the commission of the crime, the kidnapping is punishable by imprisonment in the state prison for 5, 8, or 11 years. This subdivision is not applicable to the taking, detaining, or concealing, of a minor child by a biological parent, a natural father, as specified in Section 7611 of the Family Code, an adoptive parent, or a person who has been granted access to the minor child by a court order.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

SEC. 2. Section 209 of the Penal Code is amended to read:

209. (a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away another person by any means whatsoever with intent to hold or detain, or who holds or detains, that person for ransom, reward or to commit extortion or to exact from another person any money or valuable thing, or any person who aids or abets any such act, is guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state prison for life without possibility of parole in cases in which any person subjected to any such act suffers death or bodily harm, or is intentionally confined in a manner which exposes that person to a substantial likelihood of death, or shall be punished by imprisonment in the state prison for life with the possibility of parole in cases where no such person suffers death or bodily harm.

(b) (1) Any person who kidnaps or carries away any individual to commit robbery, rape, spousal rape, oral copulation, sodomy, or rape by instrument in violation of Section 289, shall be punished by imprisonment in the state prison for life with possibility of parole.

(2) This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases the risk of harm to the victim over and above that necessarily present in, the intended underlying offense.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

(d) Subdivision (b) shall not be construed to supersede or affect Section 667.61. A person may be charged with a violation of

subdivision (b) and Section 667.61. However, a person may not be punished under subdivision (b) and Section 667.61 for the same act that constitutes a violation of both subdivision (b) and Section 667.61.

SEC. 3. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within five working days of coming into any city, county, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within five working days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her name and address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (d) of Section 647, subdivision 1 or 2 of Section 314, any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described

in subparagraph (A) or any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the

person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(D) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed

of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of subdivision (f), he or she may have a duty to register in any other state where he or she may relocate.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her name or residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with whom he or she last registered of the new name or address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, or any

violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in subdivisions (m) and (n) and Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting,

disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(lc) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(l) (1) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(2) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(m) (1) When a peace officer reasonably suspects, based on information that has come to his or her attention through information provided by any peace officer or member of the public, that a child or other person may be at risk from a sex offender convicted of a crime listed in paragraph (1) of subdivision (a) of Section 290.4, a law enforcement agency may, notwithstanding any other provision of law, provide any of the information specified in paragraph (2) of this subdivision about that registered sex offender that the agency deems relevant and necessary to protect the public, to the following persons, agencies, or organizations the offender is likely to encounter, including, but not limited to, the following:

(A) Public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender.

(B) Other community members at risk.

(2) The information that may be disclosed pursuant to this section includes the following:

(A) The offender's full name.

(B) The offender's known aliases.

(C) The offender's gender.

(D) The offender's race.

- (E) The offender's physical description.
- (F) The offender's photograph.
- (G) The offender's date of birth.
- (H) Crimes resulting in registration under this section.
- (I) The offender's address, which must be verified prior to publication.
- (J) Description and license plate number of offender's vehicles or vehicles the offender is known to drive.
- (K) Type of victim targeted by the offender.
- (L) Relevant parole or probation conditions, such as one prohibiting contact with children.
- (M) Dates of crimes resulting in classification under this section.
- (N) Date of release from confinement.

However, information disclosed pursuant to this subdivision shall not include information that would identify the victim.

(3) If a law enforcement agency discloses information pursuant to this subdivision, it shall include, with the disclosure, a statement that the purpose of the release of the information is to allow members of the public to protect themselves and their children from sex offenders.

(4) For purposes of this section, "likely to encounter" means both of the following:

(A) That the agencies, organizations, or other community members are in a location or in close proximity to a location where the offender lives or is employed, or that the offender visits or is likely to visit on a regular basis.

(B) The types of interaction that ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably probable.

(5) For purposes of this section, "reasonably suspects" means that it is objectively reasonable for a peace officer to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect that a child or other person is at risk.

(6) For purposes of this section, "at risk" means a person is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.

(7) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is included in Section 290.4.

(n) In addition to the procedures set forth elsewhere in this section, a law enforcement agency may advise the public of the presence of high-risk sex offenders in its community pursuant to this subdivision.

(1) For purposes of this subdivision:

(A) A high-risk sex offender is a person who has been convicted of an offense for which registration is required under paragraph (2) of subdivision (a) and also meets one of the following criteria:

(i) Has been convicted of three or more violent sex offenses, at least two of which were brought and tried separately.

(ii) Has been convicted of two violent sex offenses and one or more violent nonsex offenses, at least two of which were brought and tried separately.

(iii) Has been convicted of one violent sex offense and two or more violent nonsex offenses, at least two of which were brought and tried separately.

(iv) Has been convicted of either two violent sex offenses or one violent sex offense and one violent nonsex offense, at least two of which were brought and tried separately, and has been arrested on separate occasions for three or more violent sex offenses, violent nonsex offenses, or associated offenses.

(B) A violent sex offense means any offense defined in Section 220, except attempt to commit mayhem, 261, 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily injury during the commission of a sex offense, as provided in Section 12022.8.

(C) A violent nonsex offense means any offense defined in Section 187, subdivision (a) of Section 192, 203, 206, 207, 236, provided that the offense is a felony, subdivision (a) of Section 273a, 273d, or 451, or attempted murder, as defined in Sections 187 and 664.

(D) An associated offense means any offense defined in Section 243.4, provided that the offense is a felony, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, 314, 459, provided the offense is of the first degree, 597, 646.9, subdivision (d), (h), or (i) of Section 647, 653m, or infliction of great bodily injury during the commission of a felony, as defined in Section 12022.7.

(E) For purposes of subparagraphs (B) to (D), inclusive, an arrest or conviction for the statutory predecessor of any of the enumerated offenses, or an arrest or conviction in any other jurisdiction for any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "Law enforcement agency" means any of the following: municipal police department; sheriff's department; district attorney's office; county probation department; Department of Justice; Department of Corrections; Department of the Youth Authority; Department of the California Highway Patrol; or the police department of any state university, state college, or community college.

(2) The Department of Justice shall continually search the records provided to it pursuant to subdivision (b) and identify, on the basis of those records, high-risk sex offenders. Four times each year, the department shall provide to each chief of police and sheriff in the state, and to any other law enforcement agency upon request, the following information regarding each identified high-risk sexual offender: full name; known aliases; gender; race; physical description; photograph; date of birth; and crimes resulting in classification under this section.

(3) The Department of Justice and any law enforcement agency to which notice has been given pursuant to paragraph (2) may cause to be made public, by whatever means the agency deems necessary to ensure the public safety, based upon information available to the agency concerning a specific person, including, but not limited to, the information described in paragraph (2); the offender's address, which shall be verified prior to publication; description and license plate number of the vehicles or vehicles the offender is known to drive; type of victim targeted by the offender; relevant parole or probation conditions, such as one prohibiting contact with children; dates of crimes resulting in classification under this section; and date

of release from confinement; but excluding information that would identify the victim.

(o) Agencies disseminating information to the public pursuant to subdivision (m) shall maintain records of the offender and the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(q) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison. Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(r) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

SEC. 4. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 267; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), (h), provided that the offense is a felony, (i), or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraphs (6) and (7) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of these persons, a photograph, a physical description, gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any

other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make the CD-ROM or other electronic medium available for viewing by the public in accordance with the following. The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide

identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, shall sign a register, which the law enforcement agency is required to maintain, of persons applying to view the CD-ROM or other electronic medium, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

- (i) Notice that the caller's telephone number will be recorded.
- (ii) The charges for use of the "900" number.
- (iii) Notice that the caller is required to identify himself or herself to the operator.
- (iv) Notice that the caller is required to be 18 years of age or older.

(v) A warning that it is illegal to use information obtained through the "900" number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, or address or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.

(vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in the county jail not to exceed six months or by a fine not exceeding one thousand dollars (\$1,000), or by both. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year or by a fine not exceeding one thousand dollars (\$1,000), or both.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any of the following information disclosed pursuant to this section is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars (\$250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars (\$25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

(1) Number of calls received.

(2) Amount of income earned per year through operation of the "900" telephone number.

(3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.

(4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(5) Number of persons listed pursuant to subdivision (a).

(6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) The "900" telephone number program authorized by this section shall terminate operation on January 1, 1998.

(j) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(k) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Assembly Bill 1562 of the 1995-96 Regular Session of the Legislature. The report shall include all of the following:

(1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(l) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every

offense described in these sections, regardless of when it was committed.

(m) This section shall become operative on July 1, 1995, and shall become inoperative on January 1, 1999, and as of that date is repealed unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4.1. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of the person, photograph, a physical description, gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed.

except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make, the CD-ROM or other electronic medium available for viewing by the public in accordance with the following: The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any

registrant. The signed statement shall be maintained in a file in the designated law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" telephone number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

- (i) Notice that the caller's telephone number will be recorded.
- (ii) The charges for use of the "900" telephone number.
- (iii) Notice that the caller is required to identify himself or herself to the operator.
- (iv) Notice that the caller is required to be 18 years of age or older.
- (v) A warning that it is illegal to use information obtained through the "900" telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.
- (vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, address, or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.
- (vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months or by a fine not exceeding one thousand dollars (\$1,000), or by both. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year or by a fine not exceeding one thousand dollars (\$1,000), or both.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5

and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information, for purposes relating to any of the following, and that is disclosed pursuant to this section, is prohibited:

- (A) Health insurance.
- (B) Insurance.
- (C) Loans.
- (D) Credit.
- (E) Employment.
- (F) Education, scholarships, or fellowships.
- (G) Housing or accommodations.
- (H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars (\$250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars (\$25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" telephone number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1,

1997, and July 1, 1998. The annual report shall include all of the following:

- (1) Number of calls received.
- (2) Amount of income earned per year through operation of the "900" telephone number.
- (3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.
- (4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).
- (5) Number of persons listed pursuant to subdivision (a).
- (6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) The "900" telephone number program authorized by this section shall terminate operation on January 1, 1998.

(j) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(k) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

- (1) Number of calls received by county.
- (2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).
- (3) Number of persons listed pursuant to subdivision (a).
- (4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(l) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(m) This section shall become operative on July 1, 1995, and shall become inoperative on January 1, 1999, and as of that date is repealed unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4.2. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 267; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (4) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of the person, photograph, a physical description, gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity,

hair color, and eye color; a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make the CD-ROM or other electronic medium available for viewing by the public in accordance with the following. The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, shall sign a register, which the law enforcement agency is required to maintain, of persons applying to view the CD-ROM or other electronic medium, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" telephone number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

- (i) Notice that the caller's telephone number will be recorded.
- (ii) The charges for use of the "900" telephone number.
- (iii) Notice that the caller is required to identify himself or herself to the operator.
- (iv) Notice that the caller is required to be 18 years of age or older.
- (v) A warning that it is illegal to use information obtained through the "900" telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.
- (vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, or address or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.
- (vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.
- (viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in the county jail not to exceed six months or by a fine not exceeding one thousand dollars (\$1,000), or by both. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year or by a fine not exceeding one thousand dollars (\$1,000), or both.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any of the following information disclosed pursuant to this section is prohibited:

- (A) Health insurance.
- (B) Insurance.
- (C) Loans.
- (D) Credit.
- (E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars (\$250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars (\$25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" telephone number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

(1) Number of calls received.

(2) Amount of income earned per year through operation of the "900" telephone number.

(3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.

(4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(5) Number of persons listed pursuant to subdivision (a).

(6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) The "900" telephone number program authorized by this section shall terminate operation on January 1, 1998.

(j) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(k) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

(1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(l) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(m) This section shall become operative on July 1, 1995, and shall become inoperative on January 1, 1999, and as of that date is repealed unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4.3. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 267; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), (h) of Section 289, provided that the offense is a felony;

subdivision (i) or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraphs (6) and (7) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of this person, photograph, a physical description, gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of

Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make the CD-ROM or other electronic medium available for viewing by the public in accordance with the following. The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, shall sign a register, which the law enforcement agency is required to maintain, of persons applying to view the CD-ROM or other electronic medium, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice

upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

- (i) Notice that the caller's telephone number will be recorded.
- (ii) The charges for use of the "900" telephone number.
- (iii) Notice that the caller is required to identify himself or herself to the operator.
- (iv) Notice that the caller is required to be 18 years of age or older.
- (v) A warning that it is illegal to use information obtained through the "900" telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.
- (vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, address, or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.
- (vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any of the following information disclosed pursuant to this section is prohibited:

- (A) Health insurance.
- (B) Insurance.
- (C) Loans.
- (D) Credit.
- (E) Employment.
- (F) Education, scholarships, or fellowships.
- (G) Housing or accommodations.
- (H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars (\$250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars (\$25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(F) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

- (1) Number of calls received.
- (2) Amount of income earned per year through operation of the "900" telephone number.
- (3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.
- (4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).
- (5) Number of persons listed pursuant to subdivision (a).
- (6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

- (1) Number of calls received by county.
- (2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(k) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(l) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.4. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses or any offense which, if

committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of the person, photograph, a physical description, gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of

Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make, the CD-ROM or other electronic medium available for viewing by the public in accordance with the following: The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he, or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the designated law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" telephone number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

- (i) Notice that the caller's telephone number will be recorded.
- (ii) The charges for use of the "900" telephone number.
- (iii) Notice that the caller is required to identify himself or herself to the operator.
- (iv) Notice that the caller is required to be 18 years of age or older.
- (v) A warning that it is illegal to use information obtained through the "900" telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, and address of the person about whom information is sought in order to achieve a positive identification of that person.

Consultant Assistance if Audited

- (vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities. If audited, the Consultant shall make workpapers and other records available to the State auditors.
- (viii) A statement that the caller should have a reasonable suspicion that a person is at risk. If requested by the District, the Consultant shall provide assistance to the District in defending claims submitted if an audit results in a disallowance.

(D) The District shall not expend more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

Insurance

- (b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any punishment provided by law, by imprisonment in the state prison.
- (2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500).

The District may, from time to time, require changes in the scope of services of the Consultant to be performed hereunder. Such changes, which are mutually agreed upon by and between the District and the Consultant, shall be incorporated in written amendment to this agreement.

10. Termination of Agreement

If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner its obligation under this agreement, the District shall thereupon have the right to terminate this agreement by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination.

11. District Contact Person

The District designates the following individual as contact person for this contract:

[illegible]

the "900" telephone number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

- (1) Number of calls received.
- (2) Amount of income earned per year through operation of the "900" telephone number.
- (3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.
- (4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).
- (5) Number of persons listed pursuant to subdivision (a).
- (6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) The "900" telephone number program authorized by this section shall terminate operation on January 1, 1998.

(j) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(k) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

- (1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(l) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(m) This section shall become operative on July 1, 1995, and shall become inoperative on January 1, 1999, and as of that date is repealed unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4.5. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 266i; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b) of Section 288a provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names

and known aliases of the person, photograph, a physical description, gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make the CD-ROM or other electronic medium available for viewing by the public in accordance with the

following. The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the designated law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" telephone number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

- (i) Notice that the caller's telephone number will be recorded.
- (ii) The charges for use of the "900" telephone number.
- (iii) Notice that the caller is required to identify himself or herself to the operator.

(iv) Notice that the caller is required to be 18 years of age or older.

(v) A warning that it is illegal to use information obtained through the "900" telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, address, or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.

(vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information, for purposes relating to any of the following, and that is disclosed pursuant to this section, is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars (\$250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars (\$25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" telephone number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the

person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

(1) Number of calls received.

(2) Amount of income earned per year through operation of the "900" telephone number.

(3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.

(4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(5) Number of persons listed pursuant to subdivision (a).

(6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) Any law enforcement agency or employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purpose of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

(1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(k) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(l) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.6. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 267; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (4) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of the person, photograph, a physical description,

gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make the CD-ROM or other electronic medium available for viewing by the public in accordance with the following. The agency may require that a person applying to view the

CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, shall sign a register, which the law enforcement agency is required to maintain, of persons applying to view the CD-ROM or other electronic medium, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" telephone number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

- (i) Notice that the caller's telephone number will be recorded.
- (ii) The charges for use of the "900" telephone number.

(iii) Notice that the caller is required to identify himself or herself to the operator.

(iv) Notice that the caller is required to be 18 years of age or older.

(v) A warning that it is illegal to use information obtained through the "900" telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, address, or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.

(vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any of the following information disclosed pursuant to this section is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars (\$250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars (\$25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" telephone number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of

misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

(1) Number of calls received.

(2) Amount of income earned per year through operation of the "900" telephone number.

(3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.

(4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(5) Number of persons listed pursuant to subdivision (a).

(6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

(1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(k) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or

her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(l) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.7. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290, for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266i; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses, or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of the person, photograph, a physical description,

gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make, the CD-ROM or other electronic medium available for viewing by the public in accordance with the following: The agency may require that a person applying to view the

CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card, showing the applicant to be at least 18 years of age, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the designated law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" telephone number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" telephone number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

- (i) Notice that the caller's telephone number will be recorded.
- (ii) The charges for use of the "900" telephone number.
- (iii) Notice that the caller is required to identify himself or herself to the operator.
- (iv) Notice that the caller is required to be 18 years of age or older.

(v) A warning that it is illegal to use information obtained through the "900" telephone number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, address, or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.

(vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars (\$600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of

exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information, for purposes relating to any of the following, and that is disclosed pursuant to this section, is prohibited:

- (A) Health insurance.
- (B) Insurance.
- (C) Loans.
- (D) Credit.
- (E) Employment.
- (F) Education, scholarships, or fellowships.
- (G) Housing or accommodations.
- (H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars (\$250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars (\$25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" telephone number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other

remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

(1) Number of calls received.

(2) Amount of income earned per year through operation of the "900" telephone number.

(3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.

(4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(5) Number of persons listed pursuant to subdivision (a).

(6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

(1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(k) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(l) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 5. Section 667.61 of the Penal Code, as added by Chapter 447 of the Statutes of 1994, is repealed.

SEC. 6. Section 667.61 of the Penal Code, as added by Chapter 14 of the First Extraordinary Session of the Statutes of 1994, is amended to read.

667.61. (a) A person who is convicted of an offense specified in subdivision (c) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 25 years except as provided in subdivision (j).

(b) Except as provided in subdivision (a), a person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 15 years except as provided in subdivision (j).

(c) This section shall apply to any of the following offenses:

(1) A violation of paragraph (2) of subdivision (a) of Section 261.

(2) A violation of paragraph (1) of subdivision (a) of Section 262.

(3) A violation of Section 264.1.

(4) A violation of subdivision (b) of Section 288.

(5) A violation of subdivision (a) of Section 289.

(6) Sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(7) A violation of subdivision (a) of Section 288, unless the defendant qualifies for probation under subdivision (c) of Section 1203.066.

(d) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) The defendant has been previously convicted of an offense specified in subdivision (c), including an offense committed in another jurisdiction that includes all of the elements of an offense specified in subdivision (c).

(2) The defendant kidnapped the victim of the present offense and the movement of the victim substantially increased the risk of harm to the victim over and above that level of risk necessarily inherent in the underlying offense in subdivision (c).

(3) The defendant inflicted aggravated mayhem or torture on the victim or another person in the commission of the present offense in violation of Section 205 or 206.

(4) The defendant committed the present offense during the commission of a burglary, as defined in subdivision (a) of Section 460, with intent to commit an offense specified in subdivision (c).

(e) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) Except as provided in paragraph (2) of subdivision (d), the defendant kidnapped the victim of the present offense in violation of Section 207, 209, or 209.5.

(2) Except as provided in paragraph (4) of subdivision (d), the defendant committed the present offense during the commission of a burglary, as defined in subdivision (a) of Section 460, or during the commission of a burglary of a building, including any commercial establishment, which was then closed to the public, in violation of Section 459.

(3) The defendant personally inflicted great bodily injury on the victim or another person in the commission of the present offense in violation of Section 12022.7 or 12022.8.

(4) The defendant personally used a dangerous or deadly weapon or firearm in the commission of the present offense in violation of Section 12022, 12022.3, or 12022.5.

(5) The defendant has been convicted in the present case or cases of committing an offense specified in subdivision (c) against more than one victim.

(6) The defendant engaged in the tying or binding of the victim or another person in the commission of the present offense.

(7) The defendant administered a controlled substance to the victim by force, violence, or fear in the commission of the present offense in violation of Section 12022.75.

(f) If only the minimum number of circumstances specified in subdivision (d) or (e) which are required for the punishment provided in subdivision (a) or (b) to apply have been pled and

proved, that circumstance or those circumstances shall be used as the basis for imposing the term provided in subdivision (a) or (b) rather than being used to impose the punishment authorized under any other law, unless another law provides for a greater penalty. However, if any additional circumstance or circumstances specified in subdivision (d) or (e) have been pled and proved, the minimum number of circumstances shall be used as the basis for imposing the term provided in subdivision (a), and any other additional circumstance or circumstances shall be used to impose any punishment or enhancement authorized under any other law. Notwithstanding any other law, the court shall not strike any of the circumstances specified in subdivision (d) or (e).

(g) The term specified in subdivision (a) or (b) shall be imposed on the defendant once for any offense or offenses committed against a single victim during a single occasion. If there are multiple victims during a single occasion, the term specified in subdivision (a) or (b) shall be imposed on the defendant once for each separate victim. Terms for other offenses committed during a single occasion shall be imposed as authorized under any other law, including Section 667.6, if applicable.

(h) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section for any offense specified in paragraphs (1) to (6), inclusive, of subdivision (c).

(i) For the penalties provided in this section to apply, the existence of any fact required under subdivision (d) or (e) shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact.

(j) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the minimum term of 25 years in the state prison imposed pursuant to subdivision (a) or 15 years in the state prison imposed pursuant to subdivision (b). However, in no case shall the minimum term of 25 or 15 years be reduced by more than 15 percent for credits granted pursuant to Section 2933, 4019, or any other law providing for conduct credit reduction. In no case shall any person who is punished under this section be released on parole prior to serving at least 85 percent of the minimum term of 25 or 15 years in the state prison.

SEC. 7. Section 667.7 of the Penal Code is amended to read:

667.7. (a) Any person convicted of a felony in which the person inflicted great bodily injury as provided in Section 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; attempted murder; voluntary manslaughter; mayhem; rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace, or fear of

immediate and unlawful bodily injury on the victim or another person; sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping as punished in former subdivision (d) of Section 208, or for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; carjacking involving the use of a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, penetration of a vaginal or anal opening in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a device with intent to murder in violation of Section 12308; exploding a destructive device which causes bodily injury in violation of Section 12309, or mayhem or great bodily injury in violation of Section 12310; exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section 12303.3; any felony in which the person inflicted great bodily injury as provided in Section 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender and shall be punished as follows:

(1) A person who served two prior separate prison terms shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term in a state prison imposed pursuant to this section, but the person shall not otherwise be released on parole prior to that time.

(2) Any person convicted of a felony specified in this subdivision who has served three or more prior separate prison terms, as defined in Section 667.5, for the crimes specified in subdivision (a) of this section shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination

which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

SEC. 8. Section 667.71 of the Penal Code is amended to read:

667.71. (a) For the purpose of this section, a habitual sexual offender is a person who has been previously convicted of one or more of the offenses listed in subdivision (d) and who is convicted in the present proceeding of one of those offenses.

(b) A habitual sexual offender is punishable by imprisonment in the state prison for 25 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 25 years in the state prison imposed pursuant to this section. However, in no case shall the minimum term of 25 years be reduced by more than 15 percent for credits granted pursuant to Section 2933, 4019, or any other law providing for conduct credit reduction. In no case shall any person who is punished under this section be released on parole prior to serving at least 85 percent of the minimum term of 25 years in the state prison.

(c) At the request of the prosecutor and in lieu of the punishment specified in subdivision (b), the court shall order that the defendant be punished pursuant to Section 667.6, 667.61, 667.7, or 1170.1, if applicable.

(d) This section shall apply to persons found guilty of violating paragraph (2) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262, Section 264.1, subdivision (a) or (b) of Section 288, subdivision (a) of Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, or found guilty of kidnapping, as punished in former subdivision (d) of Section 208, kidnapping in violation of Section 209 with the intent to commit rape, spousal rape, oral copulation, sodomy, lewd or lascivious acts on a child under 14 years of age in violation of Section 288, or rape by instrument in violation of Section 289, or an offense committed in another jurisdiction that has all the elements of an offense specified in this subdivision.

(e) This section shall apply only if the defendant's status as a habitual sexual offender is alleged in the information, and either admitted by the defendant in open court, or found to be true by the

jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by court sitting without a jury.

SEC. 9. Section 667.8 of the Penal Code is amended to read:

667.8. (a) Except as provided in subdivision (b), any person convicted of a felony violation of Section 261, 262, 264.1, 286, 288a, or 289 who, for the purpose of committing that sexual offense, kidnapped the victim in violation of Section 207 or 209, shall be punished by an additional term of nine years.

(b) Any person convicted of a felony violation of subdivision (c) of Section 286, Section 288, or subdivision (c) of Section 288a who, for the purpose of committing that sexual offense, kidnapped the victim, who was under the age of 14 years at the time of the offense, in violation of Section 207 or 209, shall be punished by an additional term of 15 years. This subdivision is not applicable to conduct proscribed by Section 277, 278, or 278.5.

(c) The following shall govern the imposition of an enhancement pursuant to this section:

(1) Only one enhancement shall be imposed for a victim per incident.

(2) If there are two or more victims, one enhancement can be imposed for each victim per incident.

(3) The enhancement may be in addition to the punishment for either, but not both, of the following:

(A) A violation of Section 207 or 209.

(B) A violation of the sexual offenses enumerated in this section.

SEC. 10. Section 667.83 of the Penal Code is amended to read:

667.83. (a) When a person is convicted of a felony violation of Section 207, 209, 261, 264.1, 273a, 273d, 286, 288a, or 289 committed against a child under the age of 18 years or a violation of Section 288 committed against a child of the age designated in that statute, where the offense was committed as part of a ceremony, rite, or any similar observance, the person shall be punished by an additional term of three years in addition and consecutive to that violation.

(b) For purposes of this section, a "ceremony, rite, or any similar observance" shall mean any of the following:

(1) Actual or simulated torture, mutilation, or sacrifice of any mammal.

(2) Forced ingestion, or external application of human or animal urine, feces, flesh, blood, or bones.

(3) Placement of a living child into a coffin, open grave, or other confined area containing animal remains or a human corpse or remains.

(c) This section shall not apply to:

(1) Lawful agricultural, animal husbandry, food preparation, or wild game hunting and fishing practices and specifically the branding or identification of livestock.

(2) The lawful medical practice of circumcision or any ceremony related thereto.

(3) Any state or federally approved, licensed, or funded research project.

(d) The enhancement charged in violation of subdivision (a) shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances.

(e) The following provisions govern the imposition of this enhancement:

(1) Only one enhancement shall be imposed per victim per incident.

(2) If there are two or more victims, one enhancement may be imposed per victim per incident.

(f) The Department of Justice shall submit to the Legislature on or before January 1, 1998, a report compiling data from the Department of Justice form 8715 containing information relating to this section that has been reported into the Department of Justice automated criminal history system and is available on the longitudinal file.

(g) Persons responsible for the completion of the Department of Justice form 8715 shall submit the form to the Attorney General in a timely manner. In addition, those persons shall record all cases in which enhancements are charged under this section and the disposition of those cases.

(h) This section shall not be construed to infringe in any way upon the rights and practices of legitimate religions.

(i) This section shall remain in effect only until January 1, 1999, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SBC. 11. Section 667.85 of the Penal Code is amended to read:

667.85. Any person convicted of a violation of Section 207 or 209, who kidnapped or carried away any child under the age of 14 years with the intent to permanently deprive the parent or legal guardian custody of that child, shall be punished by imprisonment in the state prison for an additional five years.

SBC. 12. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1, and pursuant to Section 11370.2 of the Health and Safety Code. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the

crimes, including any enhancements imposed pursuant to subdivision (c) of Section 186.10 or Section 667.15, 667.8, 667.83, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, or 12022.9 of this code, and an enhancement imposed pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code. The subordinate term for each consecutive offense which is not a "violent felony" as defined in subdivision (c) of Section 667.5 shall consist of one-third of the middle term of imprisonment prescribed for each other felony conviction for an offense that is not a violent felony for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements. In no case shall the total of subordinate terms for these consecutive offenses which are not "violent felonies" as defined in subdivision (c) of Section 667.5 exceed five years. The subordinate term for each consecutive offense which is a "violent felony" as defined in subdivision (c) of Section 667.5, including those offenses described in paragraph (8), (9), or (17) of subdivision (c) of Section 667.5, shall consist of one-third of the middle term of imprisonment prescribed for each other felony conviction for an offense that is a violent felony for which a consecutive term of imprisonment is imposed, and shall include one-third of any enhancements imposed pursuant to Section 667.15, 667.8, 667.83, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.7, 12022.75, or 12022.9.

(b) (1) When a consecutive term of imprisonment is imposed under Sections 669 and 1170 for two or more convictions for kidnapping, as defined in Section 207, involving separate victims or the same victim on separate occasions, the aggregate term shall be calculated as provided in subdivision (a), except that the subordinate term for each subsequent kidnapping conviction shall consist of the middle term for each kidnapping conviction for which a consecutive term of imprisonment is imposed and shall include one-third of any enhancements imposed pursuant to Section 667.8, 667.83, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.7, 12022.75, or 12022.9. The five-year limitation on the total of subordinate terms provided in subdivision (a) shall not apply to subordinate terms for second and subsequent convictions of kidnapping, as defined in Section 207, involving separate victims or the same victim on separate occasions.

(2) As used in this subdivision, "separate occasion" means the defendant committed a second violation of Section 207 involving the same victim after at least 24 hours elapsed following his or her release of the victim.

(c) In the case of any person convicted of one or more felonies committed while the person is confined in a state prison, or is subject to reimprisonment for escape from custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all the convictions which the person is required to serve consecutively shall commence

from the time the person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. This subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(d) When the court imposes a prison sentence for a felony pursuant to Section 1170, the court shall also impose the additional terms provided in subdivision (c) of Section 186.10 and Sections 667, 667.15, 667.5, 667.8, 667.83, 667.85, 12022, 12022.1, 12022.2, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, and 12022.9 of this code, and the additional terms provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, unless the additional punishment therefor is stricken pursuant to subdivision (h). The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of the additional term, the court shall apply the sentencing rules of the Judicial Council.

(e) When two or more enhancements under Sections 12022, 12022.4, 12022.5, 12022.55, 12022.7, and 12022.9 may be imposed for any single offense, only the greatest enhancement shall apply. However, in cases of lewd or lascivious acts upon or with a child under the age of 14 years accomplished by means of force or fear, as described in Section 288, kidnapping, as defined in Section 207, subdivision (b) of Section 209, or Section 209.5, sexual battery, as defined in Section 243.4, spousal rape, as defined in Section 262, penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, carjacking, rape or burglary, or attempted lewd or lascivious acts upon or with a child under the age of 14 years accomplished by means of force or fear, kidnapping, sexual battery, spousal rape, penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, carjacking, rape, murder, or burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022, 12022.4, or subdivision (a) of, or paragraph (2) of subdivision (b) of, Section 12022.5 and (2) one enhancement for great bodily injury as provided in either Section 12022.7 or 12022.9.

(f) The enhancements provided in subdivision (c) of Section 186.10 and Sections 667, 667.15, 667.5, 667.6, 667.8, 667.83, 667.85, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, and 12022.9 of this code, and in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, shall be pleaded and proven as provided by law.

(g) (1) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170, unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (b) or (c) of this section, or an enhancement is imposed pursuant to subdivision (c) of Section 186.10 or Section 667, 667.15, 667.5, 667.8, 667.83, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, or 12022.9 of this code, or an enhancement is being imposed pursuant to Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, or the defendant stands convicted of felony escape from an institution in which he or she is lawfully confined.

(2) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless an enhancement is imposed pursuant to Section 12022.1 and both the primary and secondary offenses specified in Section 12022.1 are serious felonies as specified in subdivision (c) of Section 1192.7.

(h) Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in subdivision (c) of Section 186.10 and Sections 667.15, 667.5, 667.8, 667.83, 667.85, 12022, 12022.1, 12022.2, 12022.4, 12022.6, 12022.7, 12022.75, and 12022.9 of this code, or the enhancements provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

(i) For any violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether the enhancements are pursuant to this or some other section of law. Each of the enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 13. Section 1203.066 of the Penal Code is amended to read:

1203.066. (a) Notwithstanding Section 1203 or any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person who is convicted of violating Section 288 or 288.5 when the act is committed by the use of force, violence, duress,

menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288 or 288.5.

(3) A person who is convicted of a violation of Section 288 or 288.5 and who was a stranger to the child victim or befriended the child victim for the purpose of committing an act in violation of Section 288 or 288.5, unless the defendant honestly and reasonably believed the victim was 14 years of age or older.

(4) A person who used a weapon during the commission of a violation of Section 288 or 288.5.

(5) A person who is convicted of committing a violation of Section 288 or 288.5 and who has been previously convicted of a violation of Section 261, 262, 264.1, 266, 266c, 267, 285, 286, 288, 288.5, 288a, or 289, or of assaulting another person with intent to commit a crime specified in this paragraph in violation of Section 220, or who has been previously convicted in another state of an offense which, if committed or attempted in this state, would constitute an offense enumerated in this paragraph.

(6) A person who violated Section 288 or 288.5 while kidnapping the child victim in violation of Section 207, 209, or 209.5.

(7) A person who is convicted of committing a violation of Section 288 or 288.5 against more than one victim.

(8) A person who, in violating Section 288 or 288.5, has substantial sexual conduct with a victim who is under 14 years of age.

(9) A person who, in violating Section 288 or 288.5, used obscene matter, as defined in Section 311, or matter, as defined in Section 311, depicting sexual conduct, as defined in Section 311.3.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) Paragraphs (7), (8), and (9) of subdivision (a) shall not apply when the court makes all of the following findings:

(1) The defendant is the victim's natural parent, adoptive parent, stepparent, relative, or is a member of the victim's household who has lived in the victim's household.

(2) A grant of probation to the defendant is in the best interest of the child.

(3) Rehabilitation of the defendant is feasible, the defendant is amenable to undergoing treatment, and the defendant is placed in a recognized treatment program designed to deal with child molestation immediately after the grant of probation or the suspension of execution or imposition of sentence.

(4) The defendant is removed from the household of the victim until the court determines that the best interests of the victim would be served by returning the defendant to the household of the victim.

While removed from the household, the court shall prohibit contact by the defendant with the victim, except the court may permit the supervised contact, upon the request of the director of the court ordered supervised treatment program, and with the agreement of the victim and the victim's parent or legal guardian, other than the defendant. As used in this paragraph, "contact with the victim" includes all physical contact, being in the presence of the victim, communication by any means, any communication by a third party acting on behalf of the defendant, and any gifts.

(5) There is no threat of physical harm to the child victim if probation is granted. The court upon making its findings pursuant to this subdivision is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to do so. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

The court shall order the psychiatrist or psychologist who is appointed pursuant to Section 288.1 to include a consideration of the factors specified in paragraphs (2), (3), and (4) in making his or her report to the court.

(d) The existence of any fact that would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) As used in this section and in Section 1000.12, the following terms apply:

(1) "Recognized treatment program" means a program with substantial expertise in the treatment of children who are victims of sexual abuse, their families, and offenders, that demonstrates to the court all of the following:

(A) An integrated program of treatment and assistance to victims and their families.

(B) A treatment regimen designed to specifically address the offense.

(C) The ability to serve indigent clients.

(2) "Integrated program of treatment and assistance to victims and their families" means that the program provides all of the following:

(A) A full range of services necessary to the recovery of the victim and any nonoffending members of the victim's family, including individual, group, and family counseling as necessary.

(B) Interaction with the courts, social services, probation, the district attorney, and other government agencies to ensure appropriate help to the victim's family.

(C) Appropriate supervision and treatment, as required by law, for the offender.

(f) For purposes of this section and Section 1000.12, a program that provides treatment only to offenders and does not provide an integrated program of treatment and assistance to victims and their families is not a recognized treatment program.

SEC. 14. Section 2933.5 of the Penal Code is amended to read:

2933.5. (a) (1) Notwithstanding any other law, every person who is convicted of any felony offense listed in paragraph (2), and who previously has been convicted two or more times, on charges separately brought and tried, and who previously has served two or more separate prior prison terms, as defined in subdivision (g) of Section 667.5, of any offense or offenses listed in paragraph (2), shall be ineligible to earn credit on his or her term of imprisonment pursuant to this chapter.

(2) As used in this subdivision, "felony offense" includes any of the following:

(A) Murder, as defined in Sections 187 and 189.

(B) Voluntary manslaughter, as defined in subdivision (a) of Section 192.

(C) Mayhem as defined in Section 203.

(D) Aggravated mayhem, as defined in Section 205.

(E) Kidnapping, as defined in Section 207, 209, or 209.5.

(F) Assault with vitriol, corrosive acid, or caustic chemical of any nature, as described in Section 244.

(G) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(H) Sodomy by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 286.

(I) Sodomy while voluntarily acting in concert, as described in subdivision (d) of Section 286.

(J) Lewd or lascivious acts on a child under the age of 14 years, as described in subdivision (b) of Section 288.

(K) Oral copulation by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 288a.

(L) Continuous sexual abuse of a child, as described in Section 288.5.

(M) Penetration by foreign object, as described in subdivision (a) of Section 289.

(N) Exploding a destructive device or explosive with intent to injure, as described in Section 12303.3, with intent to murder, as described in Section 12308, or resulting in great bodily injury or mayhem, as described in Section 12309.

(O) Any felony in which the defendant personally inflicted great bodily injury, as provided in Section 12022.7.

(b) A prior conviction of an offense listed in subdivision (a) shall include a conviction in another jurisdiction for an offense which

includes all of the elements of the particular felony as defined under California law.

(c) This section shall apply whenever the present felony is committed on or after the effective date of this section, regardless of the date of commission of the prior offense or offenses resulting in credit-earning ineligibility.

(d) This section shall be in addition to, and shall not preclude the imposition of, any applicable sentence enhancement terms, or probation ineligibility and habitual offender provisions authorized under any other section.

SEC. 15. (a) Section 4.1 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and AB 290. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 314 and SB 1078 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 290, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 4, 4.2, 4.3, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and SB 314. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 290 and SB 1078 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 314, in which case Sections 4, 4.1, 4.3, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and SB 1078. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 290 and SB 314 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1078, in which case Sections 4, 4.1, 4.2, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(d) Section 4.4 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 290, and SB 314. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 1078 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 290 and SB 314, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 4, 4.1, 4.2, 4.3, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(e) Section 4.5 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 290, and SB 1078. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 314 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 290 and SB 1078, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 4, 4.1, 4.2, 4.3, 4.4, 4.6, and 4.7 of this bill shall not become operative.

(f) Section 4.6 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, SB 314, and SB 1078. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 290 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 314 and SB 1078, in which case Sections 4.1, 4.2, 4.3, 4.4, 4.5, and 4.7 of this bill shall not become operative.

(g) Section 4.7 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, SB AB 20, SB 314, and SB 1078. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) this bill is enacted after AB 290, SB 314, and SB 1078, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 4, 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6 of this bill shall not become operative.

SEC. 16. Section 12 of this act, which amends Section 1170.1 of the Penal Code, shall not become operative if Senate Bill 721 of the 1997-98 Regular Session is enacted and becomes operative on or before January 1, 1998, and Senate Bill 721 amends Section 1170.1 of the Penal Code.

SEC. 17. It is the intent of the Legislature in enacting this act that the two-prong test of asportation for kidnapping, as set forth in *People v. Daniels*, 71 Cal. 2d 1119, 1139, be applied to violations of subdivision (b) of Section 209 of the Penal Code, as amended by this act, pursuant to the decision of the California Supreme Court in *People v. Rayford*, 9 Cal. 4th 1, 20.

SEC. 18. This act shall not be construed to do any of the following:

(a) Repeal the duty of persons convicted of conduct covered under former subdivision (d) of Section 208 of the Penal Code to register pursuant to the provisions of Section 290 of the Penal Code.

(b) Forgive or legalize any conduct prohibited by Section 208 or 667.61 of the Penal Code, as either of those sections read prior to January 1, 1998.

(c) Void or make voidable or render invalid any conviction for a violation of Section 208, 290, or 667.61 of the Penal Code, as any of those sections read prior to January 1, 1998.

(d) Bar any prosecution for any conduct prohibited by Section 208, 290, or 667.61 of the Penal Code, as any of those sections read prior to January 1, 1998.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Exhibit 8

Assembly Bill No. 1303

CHAPTER 818

An act to amend Sections 266h, 266i, and 290 of, and to add and repeal Section 290.9 of, the Penal Code, and to amend Section 5328.2 of the Welfare and Institutions Code, relating to sex offenders.

[Approved by Governor October 8, 1997. Filed
with Secretary of State October 9, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1303, Miller. Sex offenders: registration.

(1) Existing law requires persons convicted of specified sex offenses to register with local law enforcement agencies upon their discharge, parole, or release from confinement and to update that registration annually. Failure to register or update the registration is a crime.

This bill would include among these specified offenses pimping or pandering involving a minor, aggravated sexual assault of a child, and solicitation to commit sexual assault. The bill would also require every person who is a sexually violent predator to verify his or her address every 90 days in a manner established by the Department of Justice, and would require the person to be notified of this increased registration requirement. Failure to comply with the 90-day registration requirement would be a felony or a misdemeanor. This bill also would require the Department of Justice to report to the Legislature on the implementation and effectiveness of the 90-day registration requirement for sexually violent predators. By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

(2) Existing law requires the State Department of Mental Health, a state hospital, or any other public or private mental health facility approved by the county mental health director to forward immediately without prior request to the Department of Justice movement and identification information and records regarding a patient who is committed to any of these facilities for observation or for an indeterminate period as a mentally disordered sex offender, or regarding a patient who is committed to any of these facilities pursuant to a plea of insanity or a finding of mental incompetence or for receiving treatment as an imminently dangerous person.

This bill would make this provision applicable to movement and identification information and records regarding a person who is civilly committed as a sexually violent predator.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the

state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. In order to ensure the continued receipt of federal anti-drug abuse funds by the state and to protect the public from repeat violent sex offenders, it is the intent of the Legislature that California sex offender registration statutes comply with the provisions of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program contained in the federal Violent Crime Control and Law Enforcement Act of 1994 (Section 14071 of Title 42 of the United States Code).

SEC. 2. Section 266h of the Penal Code is amended to read:

266h. (a) Except as provided in subdivision (b), any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and shall be punished by imprisonment in the state prison for three, four, or six years.

(b) If the person engaged in prostitution is a minor over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six years. If the person engaged in prostitution is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

SEC. 3. Section 266i of the Penal Code is amended to read:

266i. (a) Except as provided in subdivision (b), any person who does any of the following is guilty of pandering, a felony, and shall be punished by imprisonment in the state prison for three, four, or six years:

(1) Procures another person for the purpose of prostitution.

(2) By promises, threats, violence, or by any device or scheme, causes, induces, persuades or encourages another person to become a prostitute.

(3) Procures for another person a place as an inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state.

(4) By promises, threats, violence or by any device or scheme, causes, induces, persuades or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate.

(5) By fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution.

(6) Receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution.

(b) If the other person is a minor over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six years. Where the other person is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

SEC. 4. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within five working days of coming into any city, county, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within five working days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her name and address on a form as may be required by the Department of Justice. In addition, every person who is a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address every 90 days in a manner established by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, kidnapping, as punishable pursuant to subdivision (d) of Section 208, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (d) of Section 647, subdivision

(c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the

official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, subdivision (a) of Section 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her name or residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with whom he or she last registered of the new name or address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section

is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Except as provided in paragraph (5) and notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Except as provided in paragraph (5), any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(5) Any person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, fails to verify his or her registration every 90 days as required in this section, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in subdivisions (m) and (n) and Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(l) (1) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(2) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(3) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified whenever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or

agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(m) (1) When a peace officer reasonably suspects, based on information that has come to his or her attention through information provided by any peace officer or member of the public, that a child or other person may be at risk from a sex offender convicted of a crime listed in paragraph (1) of subdivision (a) of Section 290.4, a law enforcement agency may, notwithstanding any other provision of law, provide any of the information specified in paragraph (2) of this subdivision about that registered sex offender that the agency deems relevant and necessary to protect the public, to the following persons, agencies, or organizations the offender is likely to encounter, including, but not limited to, the following:

(A) Public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender.

(B) Other community members at risk.

(2) The information that may be disclosed pursuant to this section includes the following:

(A) The offender's full name.

(B) The offender's known aliases.

(C) The offender's gender.

(D) The offender's race.

(E) The offender's physical description.

(F) The offender's photograph.

(G) The offender's date of birth.

(H) Crimes resulting in registration under this section.

(I) The offender's address, which must be verified prior to publication.

(J) Description and license plate number of offender's vehicles or vehicles the offender is known to drive.

(K) Type of victim targeted by the offender.

(L) Relevant parole or probation conditions, such as one prohibiting contact with children.

(M) Dates of crimes resulting in classification under this section.

(N) Date of release from confinement.

However, information disclosed pursuant to this subdivision shall not include information that would identify the victim.

(3) If a law enforcement agency discloses information pursuant to this subdivision, it shall include, with the disclosure, a statement that the purpose of the release of the information is to allow members of the public to protect themselves and their children from sex offenders.

(4) For purposes of this section, "likely to encounter" means both of the following:

(A) That the agencies, organizations, or other community members are in a location or in close proximity to a location where

the offender lives or is employed, or that the offender visits or is likely to visit on a regular basis.

(B) The types of interaction that ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably probable.

(5) For purposes of this section, "reasonably suspects" means that it is objectively reasonable for a peace officer to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect that a child or other person is at risk.

(6) For purposes of this section, "at risk" means a person is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.

(7) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is included in Section 290.4.

(n) In addition to the procedures set forth elsewhere in this section, a law enforcement agency may advise the public of the presence of high-risk sex offenders in its community pursuant to this subdivision.

(1) For purposes of this subdivision:

(A) A high-risk sex offender is a person who has been convicted of an offense specified in paragraph (1) of subdivision (a) of Section 290.4 and also meets one of the following criteria:

(i) Has been convicted of three or more violent sex offenses, at least two of which were brought and tried separately.

(ii) Has been convicted of two violent sex offenses and one or more violent nonsex offenses, at least two of which were brought and tried separately.

(iii) Has been convicted of one violent sex offense and two or more violent nonsex offenses, at least two of which were brought and tried separately.

(iv) Has been convicted of either two violent sex offenses or one violent sex offense and one violent nonsex offense, at least two of which were brought and tried separately, and has been arrested on separate occasions for three or more violent sex offenses, violent nonsex offenses, or associated offenses.

(v) Has been adjudicated a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(B) A violent sex offense means any offense defined in Section 220, except attempt to commit mayhem, 261, 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily injury during the commission of a sex offense, as provided in Section 12022.8.

(C) A violent nonsex offense means any offense defined in Section 187, subdivision (a) of Section 192, 203, 206, 207, 236, provided that

the offense is a felony, subdivision (a) of Section 273a, 273d, or 451, or attempted murder, as defined in Sections 187 and 664.

(D) An associated offense means any offense defined in Section 243.4, provided that the offense is a felony, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, 314, 459, provided the offense is of the first degree, 597, 646.9, subdivision (d), (h), or (i) of Section 647, 653m, or infliction of great bodily injury during the commission of a felony, as defined in Section 12022.7.

(E) For purposes of subparagraphs (B) to (D), inclusive, an arrest or conviction for the statutory predecessor of any of the enumerated offenses, or an arrest or conviction in any other jurisdiction for any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "Law enforcement agency" means any of the following: municipal police department; sheriff's department; district attorney's office; county probation department; Department of

Justice; Department of Corrections; Department of the Youth Authority; Department of the California Highway Patrol; or the police department of any state university, state college, or community college.

(2) The Department of Justice shall continually search the records provided to it pursuant to subdivision (b) and identify, on the basis of those records, high-risk sex offenders. Four times each year, the department shall provide to each chief of police and sheriff in the state, and to any other law enforcement agency upon request, the following information regarding each identified high-risk sexual offender: full name; known aliases; gender; race; physical description; photograph; date of birth; and crimes resulting in classification under this section.

(3) The Department of Justice and any law enforcement agency to which notice has been given pursuant to paragraph (2) may cause to be made public, by whatever means the agency deems necessary to ensure the public safety, based upon information available to the agency concerning a specific person, including, but not limited to, the information described in paragraph (2); the offender's address, which shall be verified prior to publication; description and license plate number of the vehicles or vehicles the offender is known to drive; type of victim targeted by the offender; relevant parole or probation conditions, such as one prohibiting contact with children; dates of crimes resulting in classification under this section; and date of release from confinement; but excluding information that would identify the victim.

(o) Agencies disseminating information to the public pursuant to subdivision (m) shall maintain records of the offender and the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(q) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison. Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(r) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

SEC. 5. Section 290.9 is added to the Penal Code, to read:

290.9. (a) The Department of Justice shall report to the Legislature no later than July 1, 1999, on the implementation and effectiveness of the 90-day registration requirement imposed on sexually violent predators under paragraph (1) of subdivision (a) of Section 290.

(b) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

SEC. 6. Section 5328.2 of the Welfare and Institutions Code is amended to read:

5328.2. Notwithstanding Section 5328, movement and identification information and records regarding a patient who is committed to the department, state hospital, or any other public or private mental health facility approved by the county mental health director for observation or for an indeterminate period as a mentally disordered sex offender, or for a person who is civilly committed as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6, or regarding a patient who is committed to the department, to a state hospital, or any other public or private mental health facility approved by the county mental health director under Section 1026 or 1370 of the Penal Code or receiving treatment pursuant to Section 5300 of this code, shall be forwarded immediately without prior request to the Department of Justice. Except as otherwise provided by law, information automatically reported under this section shall be restricted to name, address, fingerprints, date of admission, date of discharge, date of escape or return from escape, date of any home leave, parole or leave of absence and, if known, the county in which the person will reside upon release. The Department of Justice may in turn furnish information reported under this section pursuant to Section 11105 or 11105.1 of the Penal Code. It shall be a misdemeanor for recipients furnished with this information to in turn furnish the information to any person or agency other than those specified in Section 11105 or 11105.1 of the Penal Code.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative